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CHRONOLOGICAL TABLE.

Year.	Cap. or No.	Subject.
1 W. IV	13	Lunatic Asylum, (Dublin) 1094.*
	18	Poor, 1124.
	21	Mandamus, 20.
	22	Interrogatories, 494.
	24	Colonies, 238.*
1 & 2 W. IV.		Duchy of Cornwall, 188. Forest of Dean, 190.
	12 22	Hackney Carriages, 1227.
	26	Public Accounts, 591.*
	29	Streets of London, 195.
	31	Administration of Justice, 395.
	32	Game, 1002.
	34	Charities, 131.
•	35	Superior Courts, 401.
	36	Wages of Artisans, 1216. ————————————————————————————————————
	37 38	Building Churches, 2.
	39	Factory Apprentices, &c., 934.
-	41	Constables, 976.
	42	Poor, 122, 1125.
	44	Tumultuous Risings, 805.
•	49	Galway Town, 706.
	52	Military Accounts, 591.
	55	Malt, 871.* Bankruptcy Court, 675.
	56	Rivers, Ireland.
	57 58	Courts of Law, 512.
•	59	Poor, 123, 1125.
2 & 3 W. IV		Land Revenue, 202.
	{ 3	210.
	4 5	Embezzlement by Public Officers, 814.
		Court of Session, 402.
	17	Subletting Lands, (Ireland), 583. Tobacco, 358.*
	20 26	Public Accounts, 591.*
	31	Baking Trade, (Ireland) 958.
	32	Nisi Prius Court-house, Dublin, 403.*
	33	Chancery and Exchequer Courts, 629
	34	Coin, 796.
	37	Friendly Societies, 993.
	39	Uniformity of Process, 427, 441, 442.
	41	Tithes (Ireland), 116.* Poor, 123, 1125.
	42 43	Insolvent Debtors in India, 436.*
	44	Insolvent Debtors in England, 436.
	45	Reform Act (England), 1317.
	47	Assizes at Norwich, 465.
	48	Clerk of the Crown, K.B., 403.*
	51	Vice Admiralty Court, 603.
	54	Court of Exchequer, Scotland, 403. Charities, 136.
	57	Courts of Equity, 630.
	58 . 59	Life Annuities, 341.
	60	Assizes for King's County, Ireland, 466.
	61	Building Churches, 11.
	62	Abolishing Punishment of Death, 811.
	64	Limits of Boroughs and Cities, 1360.*
	65	Representation (Scotland), 1362 *
	68	Game (Scotland), 1016

Year.	Cap. or No.	Subject.
3 & 4 W. IV.	58	Customs, 260.*
	59	Trade of British Colonies, 261.*
	60	Isle of Man, 261.*
	61	Refining Sugar, 261.
	63	Apprenticeship Indentures, 937.
	64	Lunatics, 1121.
	67	Uniformity of Process, 487.
	68 69	Sale of Wine, &c., (Ireland) 358, 918. Land Revenue, 214.
	70	Notaries, 1366.
	71	Assizes, 469.
	72	Slave Trade, 837*.
	73	Abolition of Slavery, 837.
	74	Fines and Recoveries, 159.
	79	Trial of Offences (Ireland), 890.
	81	Land Revenue, 223.
	82 83	Separatists, 500. Banks, 314.
	84	Chancery, 638.
	87	Inclosures, 128.
	88	Seamens' Wages, 261.
	90	Lighting and Watching Parishes, 1367.
	91	Juries, (Ireland) 470.
	93	Trade to China and India, 262.
	94	Chancery Court, 641.
	97	Stamps, 829, 832.
	98 99	Bank of England, 315. Sheriffs, 517, 592.
	100	Tithes, 118.*
•	102	Marriages, 18.
	103	Factories, 939.
	104	Freehold Estates, 101.
	105	Dower, 101.
4 & 5 W. IV	106	Inheritance, 102.
	1	Factories, 950.
	8 13	Juries, (Ireland) 491. Smuggling, 265.*
	15	The King's Exchequer, 592.
	20	Fish, 358, 992.
	21	Hay and Straw, 359.
	22	Apportionment of Rents, 587.
	23	Escheat of Trust Property, 105.
·	26	Hanging in Chains, 891.
	27	Administration of Justice in Boroughs, 893
	28	Marriages, 17.
	29	Loans on Landed Securities (Ireland) 107.
	30	Exchange of Lands, 108.
	31	Transfer of 4 per Cent. Annuities, 353.*
	32	Tonnage Rates, London, 265.*
	34	Greenwich Hospital, 265.
	35	Chimney Sweepers, 950.
	36 38	New Criminal Court, London, 872. Disturbances, Ireland, 792.*
	39	Quare Impedit, 502.
	40	Friendly Societies, 994.
	41	Church Ministers, Scotland, 771.
	42	Stannary Court, 563.
	43	Justices, Scilly Island, 1092.

CHRONOLOGICAL TABLE.

Year.	Cap. or No.	Subject.
5 & 6 W. IV.	69	Workhouses, 1164.
	70	Imprisonment for Debt, Scotland, 439.
	71	Charities, 139.
	73	Forgery, 829.
	74	Tithes, 120.
	75	Tithe of Turnips, 121.
	76	Municipal Corporations, 26.
	78	Representation of Scotland, 1362.
	79	Tithes, 121.*
•	81	Letter Stealing, 834.
•	82 .	Abolishing Offices for Fines, &c. 414, 674.
	83	Letters Patent, 231.
•	94	(Local) Recovery of small debts, London, 563
W. IV	4	Letter Stealing and Sacrilege, 1391.

PART I.—CLASS V.

Corporations.

[No. I.] 1 W. c. 21.—An Act to improve the Proceedings in Prohibition and on Write of Mandamus.
[No. II.] 2 and 3 W. IV. c. 69.—An Act to prevent the Application of Corporate Property to the purposes of Election of Members to serve in Parliament 22
[No. III.] 2 and 3 W. IV. c. 80.—An Act to authorize the identifying of Lands and other Possessions of certain Ecclesiastical and Collegiate Corporations. 23
[No. IV.] 3 & 4 W. IV. c. 31—An Act to enable the Election of Officers of Corporations and other Public Companies now required to be held on the Lord's Day to be held on the Saturday next preceding, or on the Monday next ensuing. 26
[No. V.] 5 & 6 W. 4, c. 76.—An Act to provide for the Regulation of Municipal Corporations in England and Wales.

PART II. OF REAL ESTATES.

CLASS I.

Miscellaneous Statutes.

ſ	No. I.] 1 W. IV. c. 46-—An Act to alter and amend the Law relating to Illusory
	Appointments
[No. 11.] 1 W. IV. c. 47.—An Act for consolidating and amending the Laws for
	facilitating the Payment of Debts out of Real Estate.
	No. III.] 1 W. 1V. c. 60:—An Act for amending the Laws respecting Convey-
	ances and Transfers of Estates and Funds vested in Trustees and Mortgagees;
	and for enabling Courts of Equity to give effect to their Decrees and Orders in
_	certain cases
	No. 1V.] 3 & 3 W. IV. c. 104.—An Act to render Freehold and Copyhold Es-
	tates Assets for the Payment of Simple and Contract Debts 101
	No. V. 3 and 4 W. IV. c. 105.—An Act for the Amendment of the Law relat-
	ing to Dower.
L	No. VI.] 3 & 4 W. IV. c. 106.—An Act for the Amendment of the Law of Inhe-
	11tauce
L	No. VII.] 4 & 5 W. IV. c. 23.—An Act for the Amendment of the Law relative to
	the Escheat and Fortesture of Real and Personal Property holden in Trust 105
	No. VIII. J 4 & 5 W. IV. c. 29.—An Act for facilitating the Loan of Money
	upon Landed Securities in Ireland.
	No. IX.] 4 & 5 W. IV. c. 30.—An Act to facilitate the Exchange of Lands lying
	in Common Fields.
	. 100

PART II.—CLASS II.

Tithes.

	2 *************************************
	No. I.] 2 & 3 W. IV. c 41.—An Act to facilitate the Recovery of Tithes in certain cases in Ireland, and for Relief of the Clergy of the Established Church 116
ſ	No. II.] 2 & 3 W. IV. c, 100.—An Act for shortening the time required in
L	in the fine required in
	Claims of Modus Decimands, or Exemption from or Discharge of Tithes
r	No. III.] 2 & 3 W. IV. c. 119.—An Act to amend three Acts passed respectively
L	The first to amend three Acts passed respectively
	In the routin, ritin, and in the Seventh and Lighth Years of the reign of his 1-2
	Majesty King George the Fourth, providing for the establishing of Compositions
	disperse rating occupations, providing for the establishing of Compositions
	of Tithes in Ireland, and to make such Compositions permanent.
ſ	No. IV.] 3 & 4 W. IV. c. 100.—An Act for the Relief of the owners of Tithes in
L	An Act for the Relief of the owners of Tithes in
	arefund, and for the amendment of an Act passed in the last Session of Doubleman
	intituled "An Act to amond there Area and the control of Parnament,
	intituled "An Act to amend three Acts passed respectively in the Fourth, Fifth,
	and in the Seventh and Eighth Years of the reign of his late Majesty King George
	the Level Rendered to the late Majesty King George
	the routh, providing for the establishing of Compositions for Tithes in Include
	AUU ID IDAKE SUCO I OMBOSIMBE BAPMARANE
	ib.

CONTENTS.

[No. V.] 4 & 5 W. IV. c. 83.—An Act to amend an Act passed in of His present Majesty, intituled "An Act for shortening the T Claims of Modus Decimandi, or exemption from or Discharge of T [No. VI.] 5 & 6 W. IV. c. 74.—An Act for the more easy Recove [No. VII.] 5 and 6 W. IV. c. 75.—An Act for the Amendment c the Tithing of Turnips in certain Cases.

[No. VIII.] 5 and 6 W. IV. c. 79.—An Act to suspend until aft

No. VIII.] 5 and 6 W. IV. c. 79.—An Act to suspend until aft of April, one thousand eight hundred and thirty-six, proceeding Payment of certain Instalments of the Money advanced under the blashing Tithe Compositions in Ireland.

PART II.-CLASS III.

Approvement and Inclosure of Commons.

[No. I.] 1 & 2 W. IV. c. 42.—An Act to amend an Act of the of His Majesty King George the Third, for the Relief and Em

No. II.] 1 & 2 W. IV. c. 59.—An Act to enable Churchwarden to inclose Land belonging to the Crown, for the Benefit of poor Pothe parish in which such Crown Land is situated.

[No. III.] 2 W. IV. c. 42.—An Act to authorize (in Parishes inc Act of Parliament) the letting of the Poor Allotments in small p trious Cottagers.

[No. IV.] 3 & 4 W. IV. c. 35.—An Act to remedy certain Defect covery of Rates and Assessments made by Commissioners and other divers Inclosure and Drainage Acts after the Execution of the finsaid Commissioners.

[No. V.] 3 & 4 W. IV. c. 87.—An Act for remedying a Defect i suages, Lands, Tenemonts, and Hereditaments allotted, sold, divid under Acts of Inclosure, in consequence of the Award not having not having been inrolled within the Time limited by the severa authorizing the Appointment of new Commissioners in certain same shall have been omitted.

PART II.—CLASS IV

Joint-tenants, Coparceners, and Tenants in Common [See post, Part III. Class 8, 3 & 4 W. IV. c. 27, s. 12 &

PART II.—CLASS V.

Mortmain and Charitable Uses.

[No. I.] 1 & 2 W. IV. c. 34.—An Act for appointing Commissi
the Enquiries concerning Charities in England and Wales for
from thence to the end of the then next Session of Parliament
[No. 11.] 1 & 2 W. IV. c. 57.—An Act to continue and extend

[No. 11.] 1 & 2 W. IV. c. 57.—An Act to continue and extend an Act passed in the Frity-math Year of his Majesty King Georgving additional faculties in Applications to Courts of Equity re nagement of Estates or Funds belonging to Charities; and for ma visions respecting Estates or Funds belonging to Charities.

[No. 111.] 2 & 3 W. IV. c. 116.—An Act for the better securin

No. III.] 2 & 3 W. IV. c. 116.—An Act for the better securin Donations and Bequests of his Majesty's Subjects in Great British Roman Catholic Policies.

Roman Catholic Religion.

[No. IV.] 5 & 6 W. IV. c 71.—An Act for appointing Commissi
the inquiries concerning Charities in England and Wales, until
March One thousand eight hundred and thirty-seven.

PART II.—CLASS VI.

Acts for Conveyances by Infants, Lanatics, &c.

[No. I.] 1 W. IV. c. 65.—An Act for consolidating and amending the Laws relating to Property belonging to Infants, Femes Covert, Idiots, Lunatics, and Persons of unsound Mind.

PART II.—CLASS VII.

Fraudulent Conveyances.

See the 3 & 4 W. 1V. c. 27, s. 26, Part IV. Class 8, Limitations.]

PART. II.—CLASS VIII.

Leases.

[See Part II. Class 12, Land Revenue of the Crown; see also Part IV. Class 19. Distress.]

PART II.—CLASS IX.

Uses.

[There has been no recent statute upon this subject.]

PART II.—CLASS X.

Fines and Recoveries.

[No. I.] 3 & 4 W. IV. c. 74.—An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance . 159

PART II.—CLASS XI.

Wills.

[See Part III. Class XIII. Executors.]

PART II.—CLASS XII.

Land Revenue of the Crown.

[No. 1.] l and 2 W IV. c. 5.—An Act to enable his Majesty to make Leases, Copies, and Grants of Offices, Lands, and Hereditaments, Parcel of the Duchy of Cornwall, or annexed to the same.

[No. II.] 1 & 2 W. IV. c. 12.—An Act for ascertaining the Boundaries of the Forest of Dean, and for inquiring into the Rights and Privileges claimed by Free Miners of the Hundred of Saint Briavel's and for other Purposes. 190

[No. III.] 1 & 2 W. IV. c. 29.—An Act to authorize and empower the Commissioners appointed by an Act of the Seventh Year of his late Majesty King George the Fourth, for extending to Charing Cross, the Strand, and places adjacent, the

ſ	No. III.] 11 G. IV. & 1 W. IV. c. 72.—An Act to allow, before the Fifth day of
_	July one thousand eight hundred and thirty-one, Sugar to be delivered out of
_	Warehouse to be refined
L	No. IV.] 1 W. IV. c. 24.—An Act to amend an Act of the Sixth year of his late
	Majesty to regulate the Trade of the British Possessions abroad ib.
ſ	No. V.] 2 & 3 W. IV. c. 79.—An Act to continue, until the Thirty-first day of
L	December One thousand eight hundred and thirty-four, an Act of the Fifth year of
_	his late Majesty relating to the Fisheries in Newfoundland. (5 G. IV. c. 51.) ib.
L	No. VI.] 3 & 4 W. IV. c. 28.—An Act to repeal an Act of the Thirteenth year
	of his Majesty King George the First, for the better regulation of the Wootlen
	Trade
г	·
L	No. VII.] 3 & 4 W. IV. c. 9.—An Act for incorporating the Members of a So-
	ciety commonly called "The Seaman's Hospital Society" and their Successors, as
	therein is mentioned and provided, and for the better enabling and empowering
	them to carry on the charitable and useful Designs of the same Society ib.
٢	No. VIII.] 3 & 4 W. IV. c. 50.—An Act to repeal the several Laws relating to
L	the Customs
_	
L	No. IX.] 3 & 4 W. IV. c. 51.—An Act for the management of the Customs. ib.
ſ	No. X.] 3 & 4 W. IV. c. 52.—An Act for the general Regulation of Customs. ih.
Ī	No. XI. 3 & 4 W. IV. c. 53.—An Act for the Prevention of Smuggling. ib.
ł	No. XII. 3 & 4 W. IV. c. 54-An Act for the Encouragement of British Ship-
Ł	
_	ping and Navigation
	No. XIII.] 3 & 4 W. IV. c. 55.—An Act for the Registering of British vessels. 243
ſ	No. XIV. 3 & 4 W. IV. c. 56.—An Act for granting Duties of Customs. 260
r	No. XV.] 3 & 4 W. IV. c. 57.—An Act for the Warehousing of Goods. ib.
ł	No. XVI.] 3 & 4 W. IV. c. 58.—An Act to grant certain Bounties and Allow-
L	
_	ances of Customs.
Ĺ	No. XVII.] 3 & 4 W. IV. c. 59. An Act to regulate the Trade of the British
	Possessions abroad
ſ	No. XVIII.] 8 & 4 W. IV. c. 60.—An Act for regulating the Trade of the Isle
L	of Man
r	No. XIX.] 3 & 4 W. IV. c. 61.—An Act to admit Sugar without Payment of
L	
_	Duty to be refined for Exportation
Ł	No. XX.] 3 & 4 W. IV. c. 38.—An Act to continue for Seven Years, and from
	thence to the end of the then next Session of Parliament, an Act of the Fifty-ninth
	Year of King George the Third (59 G. III. c. 58), for facilitating the Recovery of
	the Wages of Seamen in the Merchants Service ib.
ſ	No. XXI.] 3 & 4 W. IV. c. 93.—An Act to regulate the Trade to China and
L	India
r	
L	No. XXII.] 4 & 5 W. IV. c. 13.—An Act to repeal so much of an Act of the
	last Session of Parliament for the Prevention of Smuggling as authorizes Magistrates
	to sentence Persons convicted of certain offences to serve His Majesty in his Naval
	Service, and to alter and amend the said Act
r	
L	No. XXIII.] 4 & 5 W. IV. c. 32.—An Act for reducing the Tonnage Rates
_	payable in the Port of London
ſ	No. XXIV.] 4 & 5 W. IV. c. 34.—An Act to repeal the Laws relating to the
_	Contribution out of Merchant Seamen's Wages towards the support of the Royal
	Naval Hospital at Greenwich, and for supplying other Funds in lieu thereof. ih.
r	No VVV 1 3 & 4 W IV a K1 . An Act to amend the I amendation to the
L	No. XXV.] 3 & 4 W. IV. c. 51.—An Act to amend the Laws relating to the
	Collection and Management of the Revenue of Excise
ſ	No. XXVI.] 4 & 5 W. IV. c. 52.—An Act to amend an Act of the Twentieth
_	Year of His Majesty King George the Second, for the Relief and Support of sick,
	maimed, and disabled Seamen, and the Widows and Children of such as shall be
_	killed, slain, or drowned in the Merchant Service; and for other Purposes. ib.
	No. XXVII.] 4 & 5 W. IV. c. 89.—An Act to amend the Laws relating to
_	the Customs
ſ	No. XXVIII.] 4 & 5 W. IV. c. 94.—An Act to enable His Majesty to invest
L	trading and other Companies with the Powers necessary for the due Conduct of their
_	Affairs, and for the Security of the Rights and Interests of their Creditors ib.
Ĺ	No. XXIX.] 5 & 6 W. IV. c. 13.—An Act to regulate the importation of Corn
	into the Isle of Man
ſ	No. XXX.] 5 & 6 W. IV. c. 19.—An Act to amend and consolidate the Laws
	relating to the Merchant Seamen of the United Kingdom and for forming and
	maintaining a Register of all the Men engaged in that Service ib.
	maintaining a recemies of air one week entagen in mat petales.

CONTRACTS.

[No. XXXI.] 5 & 6 W. IV. c. 24.—An Act for the Vol Seamen, and to make Regulations for more effectually M

[No. XXXII.] 5 & 6 W. IV. c. 53.—An Act to repeal an soft his late Majesty for regulating the Carriage of Passenger from the United Kingdom to the British Possessions on the of North America: and to make further Provision for regularsengers from the United Kingdom.

[No. XXXIII.] 5 & 6 W. c. 56.—An Act to regulate the A Tonnage and Burthen of the Merchant Shipping of the Uni

[No. XXXIV.] 5 & 6 W. IV. c. 66.—An Act to amend to

[No. XXXV.] 5 & 6. W. IV. c. 67.—An Act for the impression of the River Shannon

PART III.—CLASS III.

Insurance.

[3 & 4 W. IV. c. 53, s. 46.]

PART III.—CLASS IV.

Bills of Exchange and Promissory Note

[No. I.] 2 & 3 W. IV. c. 98.—An Act for regulating the parent of Bills of Exchange drawn payable at a Place not Residence of the Drawee or Drawees of the same.

[No. II.] 3 & 4 W. IV. c. 63.—An Act to compel Ban Notes payable to Bearer on Demand to make Returns of tion, and to authorize Banks to issue Notes payable in Lon Pounds.

[No. 111,] 3 & 4 W. 1V. c. 98.—An Act for giving to t Governor and Company of the Bank of England certain Period, under certain Conditions.

PART III.—CLASS V.

Usury.

[No. I.] 3 & 4 W. IV. c. 98, s. 7. (Act renewing the Ba [No. II.] 5 & 6 W. IV. c. 41.—An Act to amend the La given for Considerations arising out of gaming, usurious, a Transactions.

PART III.-CLASS VI.

Annuities.

[No. I.] 10 G. IV. c. 24.—An Act to enable the Committon of the National Debt to grant Life Annuities and Years.

[No. II.] 2 & 3 W. IV. c. 59.—An Act to transfer the Annuties on Lives from the Receipt of His Majesty's Extract of the Commissioners for the Reduction of the Nation an Act for enabling the said Commissioners to grant Life for Terms of Years.

PART III.—CLASS VII.

Gaming.

[See ante Part III. Class V. Usury, post, Part VI., Class 20.]

. 348

PART III.—CLASS VIII.

Stock Jobbing.

[There has been no statute on this subject since 7 G. 2, c. 8, made perpetual by the 10 Geo. II. c. 8.

PART III.—CLASS IX.

Sales of Offices.

[No. II.] 6 G. IV. c. 83.—An Act to abolish the Sale of Offices in the Court of Common Pleas in England, to make Provision for the Lord Chief Justice of the said Court, and to grant an additional Annuity to the said Lord Chief Justice on Resignation of his Office.

PART III.—CLASS XI

Transfer of Stock.

[No. I.] 11 G. IV. c. 13.—An Act for transferring certain Annuities of Four Pounds per centum per annum, into Annuities of Three Pounds and Ten Shillings or Five Pounds per centum per annum.

353

[No. II.] 3 & 4 W. IV. c. 31.—An Act for transferring certain Annuities of Four Pounds per centum per annum, into Annuities of Three Pounds and Ten Shillings per centum per annum; and for providing for paying off the Persons who may dissent to such Transfer. ib.

[No. III.] 3 & 4 W. IV. c. 24.—An Act to amend an Act of the Tenth Year of his late Majesty, for regulating the Reduction of the National Debt. ib.

PART III.—CLASS XII

Restitution of Stolen Property.

[The 7 & 8 G. IV. c. 59, s. 57, is the last provision on this subject.]

PART III.—CLASS XIII.

Executors and Administrators.

[No. I.] 1 W. IV. c. 40.—An Act for making better Provision for the Disposal of the undisposed of Residues of the Effects of Testators.

[No. II.] 3 & 4 W. IV. c. 42.—An Act for the further amendment of the Law,

and the better advancement of Justice. ib.

PART III.—CLASS XIV.

Sales.

[No. I.] 11 G. IV. c. 14.—An Act for removing the Sale of Hay and Straw from the Haymarket, and for establishing Markets for the Sale of Hay, Straw, and other Articles, in York Square, Clarence Gardens, and Cumberland Market, in the parish of Saint Pancras, in the county of Middlesex. 358
[No. II.] 2 & 3 W. IV. c. 20.—An Act to provide for the Sale, Manufacture, and Consumption of Tobacco grown in Ireland before the first day of January,
1832
[No. III.] 3 & 4 W. IV. c. 68.—An Act to amend the Laws relating to the Sale
of Wine, Spirits, Beer, and Cider by retail in Ireland ih.
[No. IV.] 4 & 5 W. IV. c. 20.—An Act to explain and amend an Act passed in
the Thirty-third year of the reign of his late Majesty King George the Second, to
and the Alleger and the second and t

regulate the conveyance and sale of Fish at First Iland. [No. V.] 4 & 5 W. IV. c. 21.—An Act for amending certain Provisions of an Act of the Thirty-sixth of George the Third, for regulating the buying and selling of Hay and Straw.

PART III.—CLASS XV.

Savings Banks.

[No. I.] 3 W. IV. c. 14.—An Act to enable Depositors in Savings Banks, and others, to purchase Government Annuities through the Medium of Savings Banks; and to amend an Act of the Ninth Year of his late Majesty to consolidate and amend the Laws relating to Savings Banks. [No. II.] 5 & 6 W. IV. c. 57.—An Act to extend to Scotland certain Provisions of an Act of the Ninth Year of his late Majesty to consolidate and amend the Laws relating to Savings Banks; and to consolidate and amend the Laws relating to Savings Banks in Scotland. 364

PART IV.

OF COURTS AND CIVIL PROCEEDINGS.

CLASS I.

General Courts of Common Law, Court Houses, Judges. [No. I.] 1 W. IV. c. 58.—An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law. [No. II.] 1 W. IV. c. 69.—An Act for uniting the Benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making ccrtain other alterations and reductions in the Judicial Establishments of Scotland. 376 [No. III.] 1 W. IV. c. 70.—An Act for the more effectual Administration of Justice in England and Wales. No. IV.] 1 W. IV. c. 3.—An Act to amend an Act of the last Session, for the better Administration of Justice, so far as relates to the Essoign and General Return Days of each Term, and to substitute other Provisions in lieu thereof; and to declare the Law with regard to the Duration of the Terms in certain cases. [No. V.] 1 & 2 W. IV. c. 31.—An Act to improve the Administration of Justice in Ireland. 395 [No. VI.] 1 & 2 W. IV. c. 35.—An Act to explain and amend an Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law.

[No. VII.] 2 W. IV. c. 5.—An Act to provide for carrying on the Business of the Court of Session in Scotland when interrupted by the Death or necessary Absence of any of the Judges thereof. [No. VIII.] An Act for the Erection of a Nisi Prius Court House in Dublin. 403 [No. IX.] 2 W. IV. c. 48.—An Act to regulate the Office of Clerk of the Crown in the Court of King's Bench in Ireland. [No. X.] 2 W. IV. c. 54.—An Act for making Provision for the Dispatch of the Business now done by the Court of Exchequer in Scotland. [No. XI.] 2 & 3 W. IV. c. 110.—An Act for the better Regulation of the Duties to be performed by the Officers on the Plea or Common Law Side of the Court of Exchequer. [No. XII.] 2 & 3 W. IV. c. 116.—An Act to provide for the Salaries of certain High and Judicial Officers, and of Payments heretofore made out of the Civil List Kevenues. [No. XIII.] 3 & 4 W. IV. c. 42.—An Act for the further Amendment of the Law, and the better Advancement of Justice [No. XIV.] 4 & 5 W. IV. c. 68.—An Act to authorize an Advance out of the General Funds of Monies belonging to the Suitors of the Courts of Chancery and Exchequer in Ireland, towards the purchasing of Ground, and Building thereon Offices necessary to the Courts of Justice in Dublin. [No. XV.] 5 & 6 W. c. 46.—An Act to amend, until the end of the next Session of Parliament, an Act of the Second Year of his present Majesty, for making Provision for the Dispatch of the Business now done by the Court of Exchequer in Scotland. [No. XVI.] 5 & 6 W. IV. c. 82.—An Act to abolish certain Offices connected with Fines and Recoveries and the Cursitors in the Court of Chancery, and to make Provision for the Abolition of certain Offices in the Superior Courts of Common Law in England.

PART IV.—CLASS II.

Attornies and other Officers-Prochein Amy.

[No. I.] 1 W. IV. c 70.—An Act for the more effectual Administration of Justice in England and Wales.

[No. II.] 5 & 6 W. IV. c. 11.—An Act to indemnify such persons in the United Kingdom as have omitted to qualify themselves for Offices and Employments, and for extending the Time limited for those purposes respectively until the twenty-fifth day of March one thousand eight hundred and thirty-six; to permit such persons in Great Britain as have omitted to make and file Affidavits of the Execution of Indentures of Clerks to Attornies and Solicitors to make and file the same on or before the first day of Hilary Term one thousand eight hundred and thirty-six; and to allow Persons to make and file such Affidavits, although the Persons whom they served shall have neglected to take out their Annual Certificates.

420

PART IV.—CLASS III.

Original Writ, Process, Arrest, Imprisonment, Bail, Appearance.

[No. 1.] 1 W. IV. c. 33.—An Act to continue for one Year and from thence until the end of the then next Session of Parliament, the Act for the Relief of Insolvent Debtors in Ireland.

[No. II.] 1 W. IV. c. 38.—An Act to continue and amend the Laws for the Relief of Insolvent Debtors in England.

[No. III.] 1 W. IV. c. 70.—An Act for the more effectual Administration of Justice in England and Wales.

[No. IV.] 2 W. IV. c. 39.—An Act for Uniformity of Process in Personal Actions in his Majesty's Courts of Law at Westminster.

427

[No. V.] 2 W. IV. c. 43.—An Act to continue until the first day of March, 1836 an Act of the Ninth Year of his late Majesty for the Relief of Insolvent Debtors in India.

[[No. VI.] 2 W. IV. c. 44.—An Act to continue for Three Years, and to amend
	the Laws for the Relief of Insolvent Debtors in England. 436
	No. VII.] 3 & 4 W. IV. c. 67.—An Act to amend an Act of the Second Year of
-	his present Majesty, for the Uniformity of Process in Personal Actions in his
	Majesty's Courts of Law at Westminster
	No. VIII.] 4 & 5 W. IV. c. 56.—An Act to continue for One Year, and from
-	thence to the end of the then next Session of Parliament, the Acts for the Relief of
	Insolvent Debtors in Ireland
	No. IX.] 4 & 5 W. IV. c. 79.—An Act to amend the Law relating to Insolvent
	Debtors in India
	No. X.] 5 & 6 W. IV. c. 70.—An Act for abolishing, in Scotland, Imprisonment
	for Civil Debts of small Amount.

PART IV.—CLASS IV.

Outlawry.

PART IV.—CLASS V.

Proceedings against Persons having Privilege of Parliament.

PART IV.—CLASS VI.

Pleadings and other Proceedings previous to Trial.

PART IV.—CLASS VII.

Set-Off.

[There has been no recent statute on this subject.]

PART IV.—CLASS VIII.

Limitation of Actions.

No. I.] 2 & 3 W. IV. c. 71.—An Act for shortening the Time of Prescription in certain Cases.

148

No. II.] 3 & 4 W. IV. c. 27.—An Act for the Limitation of Actions and Suits relating to Real Property, and for simplifying the Remedies for trying the Rights thereto

151

No. III.] 3 & 4 W. IV. c. 42.—An Act for the further Amendment of the Law, and the better Advancement of Justice.

152

PART IV.—CLASS IX.

Juries and Trials.

[No. I.] 2 W. IV. c. 47.—An Act for holding the Assizes for the County of Nor-
	folk, and for the City of Norwich and County of the same City, twice in every
	Year at Norwich
ſ	No. II.] 2 & 3 W. IV. c. 60.—An Act for holding the Assizes for the King's
.	County in Ireland, Twice in every Year, at Tullamoore, instead of Philipstown 466
F	No. III. 3 & 4 W. IV. c. 42.—An Act for the further Amendment of the Law,
•	and the better Advancement of Justice
I	No. IV.] 3 & 4 W. IV. c. 71.—An Act for the Appointment of convenient Places
	for the holding of Assizes in England and Wales
ſ	No. V.] 3 & 4 W. IV. c. 91.—An Act for consolidating and amending the Laws
•	relative to Jurors and Juries in Ireland
T	No. VI.] 4 W. IV. c. 8.—An Act to amend an Act passed in the last Session, for
-	consolidating and amending the Laws relative to Jurors and Juries in Ireland. 491
ſ	No. VII.] 4 & 5 W. IV. c. 47.—An Act for preventing the Interference of the
	Spring Assizes with the April Quarter Sessions
ſ	No. VIII.] 5 & 6 W. IV. c. 26.—An Act for the Appointment of convenient
+	Places for the holding of Assizes in Ireland. ib.

PART IV.—CLASS X.

Evidence.

	2000000
I	No. I.] 1 W. IV. c. 22.—An Act to enable Courts of Law to order the Examina-
	tion of Witnesses upon Interrogatories and otherwise
	No. II.] 3 & 4 W. IV. c. 42.—An Act for the further Amendment of the Law,
	and the better Advancement of Justice
[No. III.] 3 & 4 W. IV. c. 49.—An Act to allow Quakers and Moravians to
	make Affirmation in all Cases where an Oath is or shall be required. 498
	No. IV.] 3 & 4 W. IV. c. 82.—An Act to allow the People called Separatists to
	make a solemn Affirmation and Declaration instead of an Oath. 500

PART IV.—CLASS XI.

Costs.

[No. I.] 3	&	4	W	.IV	. c, 4	2	-An Act	or the	further	amendn	ent of the	Law, and
. the better	r ac	lva	ınc	eme	nt of	Jus	stice.	•		•	•	. 501
[No. II.]	4	&	5	W.	IV.	c.	39.—An	Act to	give	Costs i	n Actions	of Quare
Impedit.				•	•	•	•	,	•	•	•	502

PART IV.—CLASS XII.

Judgment and Execution.

[No. I.] 1 W. IV. c. 7.—An Act for the more speedy Judgment and Execution in Actions brought in His Majesty's Courts of Law at Westminster, and in the Court of Common Pleas of the County Palatine of Lancaster; and for amending the Law as to Judgment on a Cognovit actionem in Cases of Bankruptcy. 504

PART IV.—CLASS XIII.

Error and False Judgment.

[No. I.] 1 W. IV. c. 70.—An Act for the more effectual administration of Justice in England and Wales. 508

PART IV.—CLASS XIV.

Miscellaneous Statutes respecting Civil Actions and Proceedings.

[No. I.] 1 W. IV. c. 68.—An Act for the more effectual Protection of Mail Contractors, Stage Coach Proprietors, and other common Carriers for Hire, against the Loss of or Injury to Parcels or Packages delivered to them for Conveyance or Custody, the Value and Contents of which shall not be declared to them by the Owners thereof.

[No. II.] 1 & 2 W. IV. c. 58.—An Act to enable Courts of Law to give Relief against adverse Claims made upon Persons having no Interest in the Subject of such Claims.

[No. III.] 3 & 4 W. IV. c. 99.—An Act for facilitating the Appointment of Sheriffs, and the more effectual Audit and passing of their Accounts; and for the more speedy Return and Recovery of Fines, Issues, forfeited Recognizances, Penalties, and Deodands; and to abolish certain offices in the Court of Exchequer.

PART IV.—CLASS XV.

Wales, Counties Palatine, and Liberties.

[No. L.] 4 & 5 W. IV. c. 62.—An Act for improving the Practice and Proceedin the Court of Common Pleas of the County Palatine of Lancaster. 528

PART IV.—CLASS XVI.

Inferior Courts.

[No. I.] 3 & 4 W. IV. c. 22.—An Act to amend the Laws relating to Sewers. 539
[No. II.] 4 & 5 W. IV. c. 42.—An Act to facilitate the taking of Affidavits and Affirmations in the Court of the Vice-Warden of the Stannaries of Cornwall. 563
[No. III.] 5 & 6 W. IV. c. 94.—An Act for amending and consolidating the Acts of Parliament for the Recovery of Small Debts in the City of London and the Liberties thereof, and for enabling the Goods of the Debtors to be taken in Execution.

PART IV.—CLASS XVII.

Statutes relating to Personal Liberty.

There has been no recent enactment upon this subject.

PART IV.—CLASS XVIII.

Real Actions.

[See the recent statute of limitations, 3 & 4 W. IV. c. 27, s. 36, ante, Pert IV., Class XVIII., Limitation of Actions.]

[No. V.] 2 & 3 W. IV. c. 103.—An Act to provide for the Examination and Audit of the Customs and Excise Revenues in Scotland. [No. VI.] 2 & 3 W. IV. c. 104.—An Act to regulate the period of rendering the Public Accounts and making up the general Imprest Certificates. [No. VII.] 3 & 4 W. IV. c. 99.—An Act for facilitating the Appointment of Sheriffs, and the more effectual Audit and Passing of their Accounts, and for the more speedy Return and Recovery of Fines, Issues, forfeited Recognizances. Penalties, and Deodants; and to abolish certain Offices in the Exchequer. [No. VIII.] 4-W. IV. c. 15.—An Act to regulate the Office of the Receipt of His Majesty's Exchequer at Westminster. [No. IX.] 5 & 6 W. IV. c. 55.—An Act for facilitating the Appointment of Sheriffs in Ireland, and the more effectual Audit and passing of the Accounts, and for the more speedy Return and Recovery of Fines, Fees, Forfeitures, Recognizances, Penalties, and Deodands; and to abolish certain Offices in the Court of Exchequer in Ireland; and to amend the Laws relating to Grants in Custodiam and Recovery of Debts in Ireland; and to amend an Act of the Second and Third Years of His present Majesty, for transferring the Powers and Duties of the Commissioners of Public Accounts in Ireland to the Commissioners for Auditing the Public Accounts

PART IV.—CLASS XXIV.

of Great Britain.

Ecclesiastical and Maritime Courts.

[No. I.] 2 W. IV. c. 51.—An Act to regulate the Practice and the Fees in the Vice-Admiralty Courts abroad, and to obviate Doubts as to their Jurisdiction. 603 [No. II.] 2 & 3 W. IV. c. 92.—An Act for transferring the Powers of the High Court of Delegates, both in Ecclesiastical and Maritime Causes, to His Majesty in Council.

[No. III.] 2 & 3 W. IV. c. 93.—An Act for enforcing the Process upon Contempts in the Courts Ecclesiastical of England and Ireland.

PART IV.—CLASS XXIV.—A.

Privy Council.

[No. I.] 3 & 4 W. IV. c. 41.—An Act for the better Administration of Justice in His Majesty's Privy Council. 611

PART IV.—CLASS XXV.

Courts of Equity.

[No. I.] 1 W. IV. c. 36.—An Act for altering and amending the Law regarding Commitments by Courts of Equity for Contempts, and the taking Bills pro Confesso. [No. II.] 11 G. IV. & 1 W. IV. c. 60.—An Act for amending the Laws respecting Conveyances and Transfers of Estates and Funda vested in Trustees and Mortgagees; and for enabling Courts of Equity to give effect to their Decrees and Orders in certain cases. [No. III.] 2 W. IV. c. 33.—An Act to effectuate the Service of Process issuing from the Courts of Chancery and Exchequer in England and Ireland respectively. [No. IV.] 2 W. IV. c. 58.—An Act to extend the Provisions of an Act of the First Year of the Reign of His present Majesty, for altering and amending the Law regarding Commitments by Courts of Equity for Contempts, and the taking Bills pro confesso; and to explain certain parts thereof. No. V. 7 2 & 3 W. IV. c. 111.—An Act to abolish certain Sinecure Offices connected with the Court of Chancery, and to make Provision for the Lord High Chancellor on his Retirement from Office.

va. VI. 1 2 & 3 W. IV. c. 122.—An Act for making Previous for the Lord High Chancellor of England in lieu of Fees beretofore received by him. No. VII.] 3 & 4 W. IV. c. 84.—An Act to provide for the Performance of the Duties of certain Offices connected with the Court of Chancery which have been abolished. 3 & 4 W. IV. c. 94.—An Act for the Regulation of the Proceed-No. VIII. iogs and Practice of certain Offices of the High Court of Chancery in England. 641 No. IX.] 4 & 5 W. IV. c. 68.—An Act to muthorise an advance out of the general Fund of Monies belonging to the Suitors of the Courts of Chancery and Exchequer in Ireland, towards the Purchasing of Ground and Building thereon Offices necessary to the Courts of Justice in Dublin. No. X.] 4 & 5 W. IV. c. 78.—An Act for the Amendment of the Proceedings and Practice of the High Court of Chancery in Ireland. 654 No. XL] 4 & 5 W. IV. c. 82.—An Act to amend and extend an Act of the Second Year of His present Majesty, to effectuate the Service of Process issuing from the Courts of Chancery and Exchequer in England and Ireland. No. XII.] 5 & 6 W. IV. c. 16.—An Act for altering and amending the Law regarding Commitments by Courts of Equity for Contemps, and the taking Bills pro Confesso in Ireland. No. XIII.] 5 & 6 W. IV. c. 47.—An Act to repeal so much of an Act passed in the Third and Fourth Years of His present Majesty, as relates to the Amount of the Salary granted to the Clerk of the Crown in Chancery; and to make other Provisions in relation to the said Office. No. XIV.] 5 & 6 W. IV. c. 82.—An Act to abolish certain Offices connected with Fines and Recoveries, and the Curattors in the Court of Chancery, and to make Provision for the Abelition of certain Offices in the Seperior Courts of Commen Law in England.

PART IV.-CLASS XXVI.

Coroner.

It has been for some time in contemplation to revise the laws relating to coroners but such revision had not as yet been effected.]

PART IV.—CLASS XXVII.

Warden.

[There has been no recent statute relating to this class.]

PART IV.—CLASS XXVIII.

Bankrupts.

No. II.] 1 & 2 W. IV. c. 114.—An Act to amend the Laws relating to Bankrupts.

No. III.] 3 & 4 W. IV. c. 47.—An Act to authorize His Majesty to give further Powers to the Judges of the Court of Bankruptcy, and to direct the times of Sitting of the Judges and Commissioners of the said Court.

No. IV.] 5 & 6 W. IV. c. 29.—An Act for investing in Government Securities a Portion of the Cash lying unemployed in the Bank of England belonging to Bankrupts' Estates, and applying the Interest thereon in discharge of the Expences of

the Court of Bankruptcy, and for the Relief of the Suitors in the said Court; and for removing Doubts as to the Extent of the Powers of the Court of Review and

of the Subdivison Courts.

No. I. J. 1 & 2 W. IV. c. 56.—An Act to establish a Court of Bankruptcy. 675

PART V.

CRIMINAL LAW.

CLASS I.

Statutes relating to Religion and Ecclesiastical Authority.

[No. I.] 1 & 2 W. IV. c. 49.—An Act to repeal so much of an Act passed in Ireland in the Fourth Year of King George the First, for the better regulating the Town of Galway, and for strengthening the Protestant Interest therein, as limits the Franchise created by the said Act to Protestants only. [No. II.] 2 W. IV. c. 7.—An Act for the Relief of His Majesty's Subjects in Ireland being Protestants of the Established Church, and to repeal an Art passed in the Parliament of Ireland in the Thirty-third Year of the Reign of Hi- Vajesty King George the Third, intituled "An Act to remove some doubts respecting Persons in Office taking the Sacramental Test." No. III.] 3 & 4 W. IV. c. 37.—An Act to alter and amend the Laws relating to the Temporalities of the Church in Ireland. [No. IV.] 4 & 5 W. IV. c. 41.—An Act to regulate the Appointment of Ministers to Churches in Scotland erected by voluntary Contributions. [No. V.] 4 & 5 W. IV. c. 90.—An Act to amend an Act made in the Third and Fourth Year of the Reign of His present Majesty, intituled "An Act to alter and amend the Laws relating to the Temporalties of the Church of Ireland." [No. VI.] 5 & 6 W. IV. c. 30.—An Act for Protecting the Revenues of vacant Ecclesiastical Dignities, Prebends, Canonries, and Benefices, without cure of Souls, and for Preventing the lapse thereof during the pending inquiries respecting the state of the Established Church of England and Wales. 791

PART V.—CLASS II.

Treason and other Offences affecting the State.

No. I.] 3 & 4 W. IV. c. 4.—An Act for the more effectual suppression of Local Disturbances and Dangerous Associations in Ireland. 792

[No. II.] 4 & 5 W. IV. c. 38.—An Act to continue under certain Modifications to the First day of August, 1835, an Act of the Third Year of His present Majesty, for the more effectual suppression of Local Disturbances and Dangerous Associations in Ireland.

[No. III.] 4 & 5 W. IV. c. 48.—An Act for the better Prevention and more speedy Punishment of Offences endangering the Public Peace in Ireland.

ib.

PART V.—CLASS III.

Offences relating to Coin and Bullion.

2 W. IV. c. 34.—An Act for consolidating and amending the Laws against Offences relating to the Coin.

PART V.-CLASS IV.

Homicide.

[There has been no recent provision on this subject.]

PART V.—CLASS V.

Rape, Polygamy, Forcible Marriage, &c.

[There have been no recent enactments upon the subjects of this c.ass.]

PART V.—CLASS VI.

Riots and Offences attended with Malice or Violence.

[No. I.] 1 & 2 W. IV. c. 44.—An Act to amend an Act passed in the Parliament of Ireland, in the Fifteenth and Sixteenth Years of the Reign of His Majesty King George the Third, intituled "An Act to prevent and punish tumultuous Risings of Persons within this Kingdom, and for other Purposes therein mentioned.

[No. II.] 2 & 3 W. IV. c. 118.—An Act to restrain for Five Years, in certain Cases, Party Processions in Ireland. 809

PART V.—CLASS VII.

Larceny, [Burglary,] Robbery, Assault, with Intent to Rob, Child Steuling, [Sacrilege.]

[No. I.] 2 & 3 W. IV. c. 62.—An Act for abolishing the Punishment of Death in certain Cases, and substituting a lesser Punishment in lieu thereof.

[No. II.] 3 & 4 W. IV. c. 44.—An Act to repeal so much of two Acts of the Seventh and Eighth Years and the Ninth Year of King George the Fourth as inflicts the Punishment of Death upon Persons breaking, entering, and stealing in a Dwelling-house; also for giving Power to the Judges to add to the Punishment of Transportation for Life in certain Cases of Forgery, and in certain other Cases.

[No. III.] 5 & 6.W.IV. c. 34.—An Act to amend Two clerical Errors contained in an Act passed in the Ninth Year of the Reign of His late Majesty King George the Fourth, intituled "An Act for consolidating and amending the Laws in Ireland relative to Larceny and other Offences connected therewith." 813

[No. IV.] 5 & 6 W. IV. c. 61.—An Act for abolishing Capital Punishments in cases of Letter Stealing and Sacrilege.

ib.

PART V.—CLASS VIII.

Offences relating to Stolen Goods.

[There has been no act since the 7 & 8 G. IV. c. 29 (see Evans's Statutes, Part V. Class VII., relating to the receiving of stolen goods.]

PART V.—CLASS IX

Embezzlements by Agents and Public Officers.

No. I.] 2 W. IV. c. 4.—An Act for more effectually preventing Embezzlements by Persons employed in the Public Service of His Majesty. 814

PART V.—CLASS X.

Embezzlement of Public Stores.

[The 55 G. III. c. 127, was the last act on this subject.] (See 6 Evans's Statutes, Part V. Class IX.)

PART V.—CLASS XI,

False Pretences.

[There has been no enactment relating to this head subsequent to the 7 & 8 G. IV. c. 29. See 6 Evans's Statutes, Part V. Class VII.]

PART V.—CLASS XII.

Forgery.

[No. I.] I W. IV. c. 66.—An Act for reducing into One Act all such Forgeries as shall henceforth be punished with Death, and for otherwise amending the Laws relative to Forgery. [No. II.] 2 & 3 W. IV. c. 123.—An Act for abolishing the Punishment of Death in certain cases of Forgery. [No. III.] 3 & 4 W. IV. c. 44.—An Act to repeal so much of Two Acts of the Seventh and Eighth Years and the Ninth Year of King George the Fourth as inflicts the Punishment of Death upon Persons breaking, entering, and stealing in a Dwelling-house; also for giving Power to the Judges to add to the Punishment of Transportation for Life in certain cases of Forgery, and in certain other [No. IV:] 3 & 4 W. IV. c. 47.—An Act to prevent the Selling and Uttering of Forged Stamps, and to exempt from Stamp Duty Artificial Mineral Waters in Great Britain, and to allow a Drawback in the exportation of Gold and Silver Plate Manufactured in Ireland. [No. V.] 5 & 6 W. IV. c. 73.—An Act to provide that Persons accused of Forgery in Scotland shall not be entitled to Bail, unless in certain Cases. ib.

PART V.—CLASS XIII.

Piracy and Offences committed on the High Seas.

[The 6 G. IV. c. 59, was the last statute relating to piracy.]

PART V.—CLASS XIV.

Felony relating to the Revenue.

[No. I.] 3 & 4 W. IV. c. 51.—An Act for the Management of the Customs. 831 [No. II.] 3 & 4 W. IV. c. 53.—An Act for the Prevention of Smuggling. ib. [No. III.] 3 & 4 W. IV. c. 97.—An Act to prevent the selling and uttering of forged Stamps, and to exempt from Stamp Duty artificial Mineral Waters in Great Britain, and to allow a Drawback on the exportation of Gold and Silver Plate manufactured in Ireland. 832 [No. IV.] 5 & 6 W. IV. c. 81.—An Act for abolishing Capital Punishments in Cases of Letter Stealing and Sacrilege. 834

PART V.—CLASS XV.

Offences relating to Quarantine.

[There has been no statute upon this subject since the 6 G. IV. c. 78.]

Trade.

2 13 11

PART V.—CLASS XVI.

Felony relating to the Slave Trade.

No. I.] An Act to reduce the Rates of Bounties payable upon the Seizure of Slaves.

[No. II.] An Act for carrying into effect Two Conventions with the King of the French for suppressing the Slave Trade.

[No. III] 3 & 4 W. IV. c. 73.—An Act for the abolition of Slavery throughout the British Colonies; for promoting the Industry of the the mannmitted Slaves; and for compensating the Persons hitherto entitled to the services of such slaves ib.

[No. IV.] 5 & 6 W. IV. c. 45.—An Act to carry into further execution the Provisions of an Act passed in the Third and Fourth Years of His present Majesty, for compensating Owners of slaves, upon the Abolition of slavery.

[No. V.] 5 & 6 W. IV. c. 60.—An Act for carrying into effect a Treaty with the King of the French, and the King of Sardinia for suppressing the Slave Trade. 862

[No. VI.] 5 & 6 W. IV. c. 61.—An Act for carrying into effect the Treaty with

PART V.—CLASS XVII.

the King of the French and the King of Denmark for suppressing the Slave

Escapes and Rescue.

[There has been no recent enactment upon these subjects.]

PART V.—CLASS XVIII.

Perjury.

[No. I.] 5 & 6. W. IV. c. 62.—An Act to repeal an Act of the session of Parliament, intituled "An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire suppression of voluntary and extrajudicial Oaths and Affidavits;" and to make other Provisions for the Abolition of unnecessary Oaths.

PART V.—CLASS XIX.

Seducing Artificers and exporting Utensils.

[No. I.] 3 & 4 W. IV. c. 52.—An Act for the general Regulation of the Customs.

PART V.—CLASS XX.

Offences respecting Elections of Members of Parliament.

[See the Reform Act, post. Part IX.]

PART V.—CLASS XXI.

Libels, &c.

[No. 1.] 1 W. IV. c. 73.—An Act to repeal so much of an Act of the Sixtieth Year of His late Majesty King George the Third, for the more effectual Prevention

and Punishment of blasphemous and soditions Libels, as relates to the Sentence of Banishment for the Second Offence: and to provide some further Remedy against the abuse of publishing Libels.

870

PART V.—CLASS XXII.

Nuisances.

[See ante Part IV. Class VIII. 3 & 4 W. IV. c. 27, s. 36.]

PART V.—CLASS XXIII.

Maintenance, Champerty, Liveries.

[There has been no modern statute upon these subjects.]

PART V.—CLASS XXIV.

Miscellaneous Offences.

[No. 1.] 1 & 2 W. IV. c. 55.—An Act to consolidate and amend the Laws for suppressing the Illicit making of Malt and Distillation of Spirits in Ireland. 871

PART V.—CLASS XXIV.—A.

New Central Criminal Court.

[No. 1,] 4 & 5 W. IV. c. 36.—An Act for establishing a new Court for the Trial of Offences committed in the Metropolis and parts adjoining . 872

PART V.—CLASS XXV.

Criminal Proceedings.

[No. I.] 11 G. IV. c. 25.—An Act to repeal an Act of the Fifty-fifth Year of His late Majesty, for procuring Returns of Persons committed, tried, and convicted for Criminal Offences and Misdeameanors. No. II. 1 W. IV. c. 37.—An Act to amend an Act of the Ninth Year of His late Majesty King George the Fourth, to facilitate Criminal Trials in Scotland, and to abridge the period now required between the pronouncing of Sentence and Execution thereof, in Cases importing a Capital Punishment. [No. III.] 1 W. IV. c. 39.—An Act to amend an Act passed in the Fifth Year of His present Majesty, for the Transportation of Offenders from Great Britain; and for punishing Offences committed by Transports kept to labour in the Colonies. 886 [No. IV.] 1 W. IV. c. 57.—An Act to explain and amend an Act of the Fiftyfifth Year of King George the Third, for the Payment of Costs and Charges to prosecutors and witnesses in Cases of Felony in Ireland. 889 [No. V.] 3 & 4 W. IV. c. 79.—An Act to provide for the more impartial Trial of Offences in certain Cases in Ireland. [No. VI.] 4 & 5 W. IV. c. 26.—An Act to abolish the Practice of Hanging the Bodies of Criminals in Chains. [No. VII.] 4 & 5 W. IV. c. 27.—An Act for the bettet Administration of Justice in certain Boroughs and Franchises. [No. VIII.] 4 & 5 W. IV. c. 67.—An Act for abolishing Capital Punishment in case of returning from Transportation. [No. IX.] 5 W. IV. c. 1.—An Act to explain an Act of the First Year of His present Majesty, for the more effectual Administration of Justice in England and Wales, so far as relates to the execution of Criminals in the County of Chester 894

[No. N.] 5 & 6 W. IV. c. 33.—An Act for preventing the vexatious removal of Indictments into the Court of King's Bench; and for extending the Provisions of an Act of the Fifth Year of King William and Queen Mary, for preventing Delays at the Quarter Sessions of the Peace, to other Indictments; and for extending the provisions of an Act of the Seventh Year of King George the Fourth, as to taking Bail in Cases of Felony.

PART VI.

JUSTICES OF THE PEACE.

CLASS I.

Ale-Houses.

[No. I.] 1 W. 1V. c. 51.—An Act to repeal certain of the Duties of United Kingdom, and on Beer and Ale in Great Britain, and to m	n Cyder ii ake other	n the Pro-
	visions in relation thereto.	•	897
ſ	No. II.] 1 W. IV. c. 64.—An Act to permit the general Sale of B	eer and (
_	by retail in England.	•	907
ſ	No. III.] 3 & 4 W. IV. c. 68.—An Act to amend the Laws relat	ing to the	Sale
•	of Wine, Spirits, Beer, and Cyder by retail in Ireland.	•	918

No. IV.] 4 & 5 W. IV. c. 85.—An Act to amend an Act passed in the First Year of His present Majesty, to permit the general Sale of Beer and Cyder by Retail in England.

PART VI.—CLASS II.

Apprentices, Young Persons Employed in Factories, &c.

[No. 1.] 1 & 2 W. IV. c. 39.—An Act to repeal the Laws relating to Apprentices and other Young Persons employed in Cotton Factories and in Cotton Mills, and to make further Provisions in lieu thereof.

[No. II.] 3 & 4 W. IV. c. 63.—An Act to render valid Indentures of Apprentice-

ship allowed only by Two Justices acting for the County in which the Parish from which such Apprentices shall be bound, and for the County in which the Parish into which such Apprentices shall be bound, shall be situated; and also for remedying defective Executions of Indentures by Corporations.

937

[No. III.] 3 & 4 W. IV. c. 103.—An Act to regulate the Labour of Children and young Persons in the Mills and Factories of the United Kingdom. 939

[No. V.] 4 & 5 W. IV. c. 35.—An Act for the better Regulation of Chimney Sweepers and their Apprentices, and for the safer Construction of Chimneys and Flues.

PART VI.—CLASS III.

Banks Destroying, and other Trespasses.

[There have been no recent acts upon these subjects.]

PART VI.—CLASS IV.

Bastards.

For the previsions of the 4 & 5 W. IV. c. 76. relating to Bastards, see post, Part VI. Class XXVIII. title Poor.]

PART VI.—CLASS V.

Bent.

[See the act amending the Laws relating to Sewers, ante, Part IV. Class XVI. title
Inferior Courts.]

PART VI.—CLASS V.—A.

Bread.

[No. I.] 2 W. IV. c. 31. An Act to regulate the Paking Trade in Ireland. . 958

PART VI.—CLASS VI.

Bridges.

[No. I.] 4 & 5 W. IV. c. 61. An Act for the more effectually providing for the Erection of certain Bridges in Ireland.

PART VI.-CLASS VII.

Carriers.

[No. I.] 1 W. IV. c. 68. An Act for the more effectual protection of Mail Contractors, Stage Coach Proprietors, and other Common Carriers for hire, against the loss of or injury to Parcels or Packages delivered to them for conveyance or custody, the value and contents of which shall not be declared to them by the Owners thereof.

[No. II.] 5 & 6 W. IV. c. 53. An Act to repeal an Act of the Ninth Year of His late Majesty, for regulating the Carriage of Passengers in Merchant Vessels from the United Kingdom to the British Possessions on the Continent and Islands of North America; and to make further Provisions for regulating the Carriage of Passengers from the United Kingdom.

PART VI.—CLASS VII.—A.

Cattle.

[No. I.] 5 & 6 W. IV. c. 59. An Act to consolidate and amend the several Laws relating to the cruel and improper Treatment of Animals, and the Mischiefs arising from the driving of Cattle, and to make other Provisions in regard thereto. . 969

PART VI.—CLASS VIII.

Coal Mines.

[There has been no recent enactment upon this subject.]

PART VI.—CLASS IX.

Constables.

[No. I.] 1 & 2 W. IV. c. 41. An Act for amending the Laws relative to the Appointment of Special Constables, and for the better Preservation of the Peace. 976

1

CONTENTS.

[No. II.] 2 & 3 W. IV. c. 108. An Act for amending the Laws in Ireland relative to the Appointment of Special Constables, and for the better Preservation of the Peace.

[No. III.] 5 & 6 W. IV. c. 43. An Act for enlarging the Powers of Magistrates in the Appointment of Special Constables

985

PART VI.—CLASS X.

Costs.

[There has been no recent enactment relating to costs in criminal cases.]

PART VI.—CLASS XI.

County Rate.

[No. I.] 1 W. IV. c. 61. An Act to regulate the Applotment of County Rates and Cesses in Ireland, in certain Cases.

[No. II.] 4 & 5 W. IV. c. 48. An Act to regulate the Expenditure of County Rates and Funds in aid thereof.

990

PART VI.—CLASS XII.

Distress ...

[For the enactments relating to distresses for rent, see ants, Part IV. Class XIX.]

PART VI.—CLASS XIII.

Dogs.

[See ante, Part VI. Class VII. title CATTLE.]

PART VI.—CLASS XIV.

Examination.

There has been no late statute relative to examinations in criminal cases.

PART VI.—CLASS XV.

Fireworks.

[There is no recent enactment relating to this subject.]

PART VI.—CLASS XVI.

Fish.

[No. I.] 4 W. IV. c. 20. An Act to explain and amend an Act passed in the Thirty-third Year of the Reign of His late Majesty King George the Second, to regulate the Conveyance and Sale of Fish at First Hand.

PART VI.-CLASS XVII.

Forcible Entry.

[There has been no recent statute upon this subject.]

PART VI.—CLASS XVIII.

Friendly Societies and Foundling Hospitals.

PART VI.—CLASS XIX.

Game.

[No. I.] 1 & 2 W. IV. c. 32. An Act to amend the Laws in England relative to

[No. II.] 2 & 3 W. IV. c. 68 —An Act for the more effectual Prevention of Trespasses upon Property by Persons in pursuit of Game in that part of Great Britain called Scotland.

PART VI.—CLASS XX.

Gaming.

[See ante, Part III., Class V., Usury, and post. 321.]

PART VI.—CLASS XXI.

Gaols and Houses of Correction.

[No. 1.] 5 & 6 W. IV. c. 38.—An Act for effecting greater Uniformity of Practice in the government of the several Prisons in England and Wales; and for appointing Inspectors of Prisons in Great Britain.

1021

PART VI.—CLASS XXII.

Highways.

[No. I.] 4&5 W. IV. c. 50.—An Act to consolidate and amend the Laws relating to Highways in that part of Great Britain called England. 1025

PART VI.—CLASS XXIII.

Justices of the Peace.

[No. I.] 2 & 3 W. IV. c. 117.—An Act to amend the Law relating to the Appointment of Justices of the Peace, and of Juries, in the East Indies. 1071

[No. II.] 3 W. IV. c. 19.—An Act for the more effectual Administration of Justice in the Office of a Justice of the Peace in the several Police Offices established in the Metropolis, and for the more effectual Prevention of Depredations on the River Thames and its Vicinity, for Three Years.

[No. III.] 4 & 5 W IV. c. 43 —An Act to authorize Persons duly appointed to

[No. III.] 4 & 5 W. IV. c. 43.—An Act to authorize Persons duly appointed to act as Justices of the Peace in the Islands of Scilly, although not qualified according to Law.

1092

[No. IV.] 4 & 5 W. IV. c. 27.—An Act for the better Administration of Justice in certain Boroughs and Franchises. ib.

[No. V.] 4 & 5 W. IV. c. 93.—An Act to amend the Laws relating to Appeals against Summary Convictions before Justices of the Peace in Ireland. 1093

PART VI.—CLASS XXIV.

Lord's Day.

[Several bills have of late years been introduced into the House of Commons for the better observance of the Lord's Day, but no enactment has as yet been made upon the subject.]

PART VI.—CLASS XXV.

Lunatics.

No. I.] 11 G. IV. c. 1.—An Act to authorize the Transfer of certain Balances in the Hands of the Clerks of the Peace of the several Counties of England and Wales on account of Lunatic Asylums Licences. 1094

[No. II.] 11 G. IV. c. 22.—An Act for appropriating the Richmond Lunatic Asylum in Dublin for the purposes of a District Lunatic Asylum. ib.

[No. III.] 1 W. IV. c. 13.—An Act to amend an Act passed in the eleventh Year of the reign of his late Majesty King George the Fourth, intituled "An Act

Year of the reign of his late Majesty King George the Fourth, intituled "An Act for appropriating the Richmond Lunatic Asylum in Dublin to the purposes of a District Lunatic Asylum."

ib.

No. IV. 12 & 3 W. IV. c. 107.—An Act for regulating for Three Years, and

[No. IV.] 2 & 3 W. IV. c. 107.—An Act for regulating for Three Years, and from thence until the end of the then next Session of Parliament, the Care and Treatment of Insane Persons in England.

1095

[No. V.] 3 & 4 -W. IV. c. 36.—An Act to diminish the Inconvenience and Expence of Commissions in the Nature of Writs De lunatico inquirendo; and to provide for the better Care and Treatment of Idiots, Lunatics, and Persons of unsound Mind, found such by Inquisition.

[No. VI.] 3 & 4 W. IV. c. 64.—An Act to amend an Act of the Second and Third Year of his present Majesty, for regulating the Care and Treatment of Insane Persons in England.

PART VI.—CLASS XXVI.

Pawnbrokers.

The has been no recent Act relating to Pawnbrokers.]

PART VI.—CLASS XXVII.

Players.

[For the 3 W. IV. c. 15, amending the Laws relating to Dramatic Literary Property, see Part II. Class I.]

PART VI.—CLASS XXVIII.

Poor.

[No. I.] 11 G. IV. c. 5.—An Act to repeal the Provisions of certain Acts relating
to the Removal of vagrant and poor Persons born in the Isles of Jersey and
Guernsey, and chargeable to Parishes in England; and to make other Provisions
in lieu thereof.
[No. II.] 1 W. IV. c. 18.—An Act to explain and amend an Act of the Sixth
Year of his late Majesty King George the Fourth, as far as regards the Settlement
of the Poor by the renting and Occupation of Tenements. ib.
[No. III.] 1 & 2 W. IV. c. 42.—An Act to amend an Act of the Fifty-ninth
Year of his Majesty King George the Third for the Relief and Employment of the
Poor. 1125
[No. IV.] 1 & 2 W. IV. c. 59.—An Act to enable Churchwardens and Overseers
to inclose Land belonging to the Crown for the Benefit of Poor Persons residing in
the Parish in which such Crown Land is situated ib.
[No. V.] 2 W. IV. c. 42.—An Act to authorize (in Parishes inclosed under any
Act of Parliament) the Letting of the Poor Allotments in small portions to
Industrious Cottagers. ib.
[No. VI.] 3 & 4 W. IV. c. 40.—An Act to repeal certain Acts relating to the
Removal of Poor Persons born in Scotland and Ireland, and chargeable to parishes
in England, and to make other provisions in lieu thereof, until the first day of May
one thousand eight hundred and thirty-six, and to the end of the then next Session
of Parliament
[No. VII.] 4 & 5 W. IV. c. 76.—An Act for the Amendment and better Adminis-
tration of the Laws relating to the Poor in England and Wales. 1129
[No. VIII.] 5 & 6 W. IV. c. 69.—An Act to facilitate the Conveyance of Work-
houses and other Property of parishes and of Corporations or Unions of parishes
in England and Wales

PART VI.—CLASS XXIX.

Rivers and Navigation.

[No. I.] 1 & 2 W. IV. c. 57.—An Act to empower Landed Proprietors in Ireland to sink, embank, and remove Obstructions in Rivers. 1172 [No. II.] 5 & 6 W. IV. c. 67.—An Act for the Improvement of the Navigation of the River Shannon. 1215

PART VI.—CLASS XXX.

Seditious Meetings, &c.

[There has been no recent statute upon this subject.]

PART VI.—CLASS XXXI.

Servants.

[No. I.] 1 & 2 W. IV. c. 36.—An Act to repeal several Acts and parts of Acts prohibiting the payment of Wages in Goods, or otherwise than in the Current Coin of the Realm.

[No. II.] 1 & 2 W. IV. c. 37.—An Act to prohibit the payment, in certain Trades, of Wages in Goods, or otherwise than in the current Coin of the Realm. 1218

. PART VI.—CLASS XXXII.

Sessions.

[See the 1 W. IV. c. 70, s. 25, ante Part IV. Class I.]

PART VI.—CLASS XXXIII

Sheep.

[For the recent statute 5 & 6 W. IV. c. 59, see ante Part VI. Class VII.]

PART VI.—CLASS XXXIV.

Stage [and Hackney] Coaches.

- [No. I.] 1 W. IV. c. 68.—An Act for the more effectual protection of Mail Contractors, Stage Coach Proprietors, and other common Carriers for hire against the loss of or injury to parcels or packages delivered to them for conveyance or custody, the value and contents of which shall not be declared to them by the Owners thereof.
- [No. II.] 1 & 2 W. IV. c. 22.—An Act to amend the Law relating to Hackney Carriages, and to Waggons and Carts used in the Metropolis; and to place the collection of Duties on Hackney Carriages and on Hawkers and Pedlars in England under the Commissioners of Stamps.
- No. III.] 2 & 3 W. IV. c. 120.—An Act to repeal the Duties under the Management of the Commissioners of Stamps on Stage Carriages and on Horses let for hire in Great Britain, and to grant other Duties in lieu thereof; and also to consolidate and amend the Laws relating thereto.
- [No. IV.] 3 & 4 W. IV. c. 48.—An Act to amend an Act of the second and third Years of his present Majesty, relating to Stage Carriages in Great Britain; and also to explain and amend an Act of the first and second Years of his present Majesty, relating to Hackney Carriages used in the Metropolis. 1299

PART VI.—CLASS XXXV.

Swearing.

[There has been no recent statute relating to this offence. For the Acts for the Abolition of Oaths, see ante Part IV. Class X.]

PART VI.—CLASS XXXVI.

Tithes.

[No. I.] 5 & 6 W. IV. c. 74.—An Act for the more easy recovery of Tithes. 1301

PART VI.—CLASS XXXVII.

Turnips and other Field Crops.

[For the Larceny Consolidation Act, 7 & 8 G. IV. c. 29, see Evans's Statutes, 6 vol. p. 49 e. For the 5 & 6 W. IV. c. 75, see ante Part II. Class II. and post. 121.]

PART_VI.—CLASS XXXVIII.

Vagrants.

[The 5 G. IV. c. 83, was the last statute on this subject.]

PART VI.—CLASS XXXIX.

Weights and Measures.

[No. I.] 4 & 5 W. IV. c. 49.—An Act to amend and render effectual Two Acts of the fifth and sixth Years of the reign of his late Majesty King George the Fourth relating to Weights and Measures.

1302

[No. II.] 5 & 6 W. IV. c. 63.—An Act to repeal an Act of the fourth and fifth Year of his present Majesty relating to Weights and Measures, and to make other Provisions instead thereof.

PART VII.

MISCELLANEOUS.

CLASS I. Annual Indemnity Act.

II. Mutiny Act.

III. Billetting Act.

IV. Disembodied Militia Act

V. Marine Act.

PART VIII.

THE UNION ACTS.

CLASS I. Union between England and Scotland.
II. Union between Great Britain and Ireland.

[See post, Part IX.]

PART IX.

STATUTES RELATING TO THE REPRESENTATION.

[No. I.] 2 W. IV. c. 45.—An Act to amend the Representation of the People in England and Wales.

[No. II.] An Act to settle and describe the Divisions of Counties and the Limits of Cities and Boroughs, in England and Wales, in so far as respects the Election of Members to serve in Parliament.

[No. III.] 5 & 6 W. IV. c. 36.—An Act to limit the time of taking the Poll in Boroughs at contested Elections of Members to serve in Parliament to One

[No. IV.] 2 & 3 W. IV. c. 65.—An Act to amend the Representation of the People in Scotland.

[No. V.] 4 & 5 W. IV. c. 86.—An Act for the more effectual Registration of Persons entitled to vote in the Election of Members to serve in Parliament in Scotland.

[No. VI.] 5 & 6 W. IV. c. 78.—An Act to explain and amend an Act passed in the Second and Third Year of the Reign of King William the Fourth, for amending the Representation of the People in Scotland and to diminish the Expences there.

ib.

[No. VII.] 2 & 3 W. IV. c. 88.—An Act to amend the Representation of the People of Ireland. ib.

PART X.

Supplementary Miscellaneous Statutes.

[No. I.] 2 & 3 W. IV. c. 75.—An Act for regulating Schools of Anatomy. 1363
[No. II.] 3 & 4 W. IV. c. 70.—An Act to alter and amend an Act of the Fortyfirst Year of His Majesty King George the Third, for the better Regulation of
Public Notaries in England.

[No. III.] 3 & 4 W. IV. c. 90.—An Act to repeal an Act of the Eleventh Year
of His late Majesty King George the Fourth, for the lighting and watching of
Parishes in England and Wales, and to make other Provisions in lieu thereof. 1367
[No. IV.] 5 W. IV. c. 2.—An Act to amend an Act of the Thirty-eighth Year of
King George the Third, for preventing the Mischiefs arising from the printing and
publishing Newspapers, and Papers of a like Nature, by persons not known, and
for regulating the Printing and Publication of such Papers in other respects; and
to discontinue certain Actions commenced under the Provisions of the said act. 1389
[No. V.] 6 W. IV. c. 4.—An Act to amend an Act of the last Session for abolishing Capital Punishments in Cases of Letter Stealing and Sacrilege.

1391

ERRATA.

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136 For "1 & 2 W. IV. c. 57," read "2 & 3 W. 4, c. 57."
146 1st line, for "In" read "For."
267 For "3 & 4 W. IV. c. 51" read "4 & 5 W. IV. c. 51."
320 9th line from the top for "See" read "For."
348 9th line from the top for "In" read "For."
353 For "3 & 4 W. IV, c. 31" read "4 & 5 W. c. 31."
689 For "1 & 2 W. IV. c. 114" read "2 & 3 W. IV. c. 114."
792 For "4 & 5 W. IV. c. 48" read "5 & 6 W. IV. c. 48."
1025 For "4 & 5 W. IV. c. 50' read "5 & 6 W. IV. c. 50."
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A SUPPLEMENT

TO THE

Collection of the Statutes,

CONNECTED WITH THE

GENERAL ADMINISTRATION OF THE LAW.

PART I.

Of Persons and Corporations.

- CLASS I. Of Aliens, Denizens, and Naturalization.
 - 2. Statutes relating to the Clergy.
 - 3. Marriage.
 - 4. Parent and Child.
 - 5. Corporations.

CLASS I.

[There has been no statute passed on the subjects of this class since the last Alien act, 7 G. 4, c. 54.]

PART I.

CLASS II.

STATUTES RELATING TO THE CLERGY.

[No. I.] 1 and 2 W. 4, c. 38.—An Act to amend and rende more effectual an Act passed in the Seventh and Eight Years of the Reign of His late Majesty, intituled An Act t amend the Acts for building and promoting the building additional Churches in populous Parishes.

[15th October 1831]

WHEREAS, &c. [Recites the titles of the 58 G. 3, c. 45, 59 G. 3, 134, 3 G. 4, c. 72, 5 G. 4, c. 103, 7 & 8 G. 4 c. 72.] And whereas b the said recited act passed in the fifth year of the reign of his late Me jesty it was amongst other things enacted, that with a view to affor facility to the erection of churches and chapels it should be lawful for certain persons building or purchasing the same, and endowing the with pew rents, to nominate for forty years spiritual persons to serv such churches or chapels respectively, subject to the consent of the bishop of the diocese, and to certain regulations therein provided: an whereas by the said recited act passed in the seventh and eighth year of the reign of his late Majesty further encouragement was given to 2 same object by authorizing his Majesty's commissioners for building new churches to declare that any person or persons building a chap and endowing the same to the satisfaction of the said commissioner with some permanent provision in land or monies in the funds, show have the perpetual right of nominating the minister to serve the and whereas the said provisions of the said last-recited act have be found insufficient for such their purposes, and require amendment, order to provide more effectually for the improved pastoral super tendence of his Majesty's subjects: be it therefore enacted, &c. that much of the said recited act passed in the seventh and eighth years the reign of his late Majesty as authorizes the said commissioners declare, in the cases therein provided, the right of nominating the spa sioners in cer- tual persons to serve the chapels therein named respectively to be in t person or persons building and endowing the same, his, her, or the heirs and assigns or appointees, shall be and the same is hereby repeal

So much of 7 & 8 G. 4, c. 72, as authorizes the commistain cases to declare the right of nominating, repealed.

In parishes lation amounts to 2,000, and the churches do not afford accommodation. or where 300 persons reside more than two miles from the church, if any person shall declare his intention of building a church or chapel, according to the conditions herein

II. That in all parishes and extra-parochial places the population where the popu- which, according to the returns then last made in pursuance of any or acts of parliament, shall amount to two thousand persons, and which the existing churches or chapels do not afford accommodation more than one third of the inhabitants for the attendance upon Div Service according to the rites of the united church of England and land, and also in all parishes and extra-parochial places in which the hundred persons, whatever may be the amount of the whole populati shall be resident upwards of two miles from any such existing chall or chapel and within one mile of the site upon which a new church chapel is proposed to be erected under the provisions of this act, where any person or persons belonging to the church of England st declare his, her, or their intention of building a church or chapel, or purchasing any building fit in all respects to be used as a church chapel for the performance of Divine Service as aforesaid, or when church or chapel has already been built on the faith of the said red act of the seventh and eighth years of the reign of King George Fourth, in such a situation within the said parish or place as shall mentioned, the adapted to the convenience of that part of the inhabitants for whom s

bishop may declare the right of nominating to be in such person or his trustees.

additional accommodation is necessary, and where such person or pershall declare their intention of providing a sum of one thousand 1 & 2 W.4, punds at the least by way of endowment for such church or chapel, to be secured upon lands or money in the funds, in addition to the pew mus and profits arising from the said church or chapel, in case any ments shall be taken, and shall also declare his, her, or their intenin of providing a fund for the repairs of the said church or chapel, in maner following, (namely,) one sum, equal in amount to five pounds no every one hundred pounds of the original cost of erecting and ing up or of purchasing such chapel or building, to be secured upon in the funds as aforesaid, and also a further sum to be merred annually out of the pew rents of the said church or chapel, the rate of five pounds for every one hundred pounds of the sum be provided as last aforesaid, and also if such person or persons further declare his, her, or their intention of setting apart or approinting one third at least of the sittings in such church or chapel to be continue for ever as free sittings, it shall be lawful for the bishop of diocese in which such parish or extra-parochial place is locally tente, if he shall see fit, and he is hereby authorized, to declare by bring under his hand and seal that the right of nominating a minister such church or chapel, when so built or purchased and endowed as menid, and when the conditions herein-before mentioned shall have performed, shall for ever thereafter be in the person or persons so being or purchasing and endowing the same, his, her, or their heirs sugns, or in such trustee or trustees, being members of the united and of England and Ireland, as he, she, or they shall appoint, and in future trustee or trustees, being members of the united church of heind and Ireland, as shall from time to time be nominated by ing under the hand or hands of the trustees or trustee for the time ing of the said church or chapel, or the major part of them, or chosen nuch manner as may in the first instance be agreed upon by the bons building and endowing such church or chapel, or the major part them, and the bishop of the diocese, in writing under their hands and in the place and stead of any one or more who shall from time to time resign, or become incapable of acting, or in such ecclesiastical perbody corporate, and his or their successors, as the persons so bying shall at the time of application to the bishop nominate and Point: Provided always, that if it should happen that all the trustees of In case of said church or chapel for the time being should die without having failure of apnonted any other trustee or trustees as their successors, then and in pointment of case it shall be lawful for the incumbent for the time being of the church or chapel, with consent of the bishop of the diocese, to apand pro- Limiting the ded also, that the patronage of any such church or chapel shall not at patronage in time be vested in or held in trust by more that five persons, except trust. cases where such patronage shall pass by descent to coparceners, or the custom of gavelkind to more than five, or shall be conveyed by or deed to more than five children, grandchildren, nephews, or of the grantor or devisor: Provided also, that no church or New church built for the accommodation of three hundred persons resident not to be within wards of two miles from the existing parochial church or chapel shall two miles of placed nearer than two miles from such existing church or chapel. Il. Provided also, and be it further enacted, that previous to any Previous to nomaking such declaration of the right of nomination as aforesaid mination, a he shall be produced to him a certificate, signed by an architect or sur- certificate of and attested by two or more respectable householders in the the facts to be the the effect that the existing churches or chapels do not afford, produced to actual admeasurement, accommodation for more than one third of the bishop. bitants; or a certificate, signed by three or more respectable houseders in the parish, that there are in such parish or extra-parochial three hundred persons resident upwards of two miles from any th existing church or chapel and within one mile of the site upon

No. 1. c. 38.

existing church.

No. I. 1 & 2 W. 4.

c. 38:

Pews may be let.

which a new church or chapel is intended to be built under the provi sions of this act.

IV. That the pews or sittings in such church or chapel shall be k by the churchwardens or chapelwardens, or by some person appoints by the trustees, or person or persons building and endowing the same to act in that behalf, according to a scale of pew rents fixed by the trustees or such person or persons as aforesaid, and approved of by the bishop, which scale it shall be lawful for the trustees or such person persons as aforesaid, with consent of the bishop, to alter from time time as occasion may require: Provided always, that all such pews shall not be taken at the rent respectively fixed thereon, within fourtee days after the commencement of the ensuing year, shall in every suf case be let to any inhabitant of any adjoining parishes or places which there shall not be sufficient accommodation in the churches at chapels of the parish or place for the inhabitants thereof, at the rent re pectively so affixed upon such pews, for any term not exceeding the en of the year, and at the expiration of the year, and also of every succeed ing year in which any such pews shall be rented by inhabitants of at adjoining parishes, such pews shall be inserted in the list of vacat pews, to be taken in preference by the inhabitants of the parish or pla to which the church or chapel shall belong; and all such pews as my not be so taken by any inhabitants of the parish or place may again let, and so on from year to year, to any inhabitants of any adjoint parish or place.

In all other cases where a church or chapel has been built and endowed to the satisfaction of the commissioners, they may, with the consent of the bishop, declare the right of nominating to so building and endowing.

Limitation as to the number of persons in whom the patronage shall vest.

Application required to be made to comvious to their declaring the right of nomination.

V. That in all other cases not herein-before provided for, in which any person or persons shall have already endowed, with the sanction the said commissioners, or shall endow or declare their intention endowing, to the satisfaction of the said commissioners, any church chapel built or intended to be built by such person or persons, wi some permanent provision in land, or in money charged upon land, money in the funds, exclusively of and in addition to the pew rents profits arising from the said church or chapel, in case any such rea should be taken, and also of providing a sufficient fund for the repair of the said church or chapel, it shall be lawful for the said comm sioners, with the consent of the bishop of the diocese, if under all 4 circumstances it shall appear to them fit and proper so to do, to declar that after certain conditions herein-after mentioned are performed be in the person shall have been already satisfied, the right of nominating a minister such church or chapel shall for ever thereafter be in the person persons building and endowing or having built and endowed the same his, her, or their heirs and assigns, or in such person or persons, ecc siastical person or body corporate, and his or their successors, as she, or they shall appoint; and in case such church or chapel sh have been or shall be built by subscription, then in such person or P sons, their heirs or assigns, or in such ecclesiastical person or body c porate, and his and their successors, as the major part in value of su subscribers shall, at the time of the application to the commissione nominate or appoint: Provided always, that the patronage of any su church or chapel shall at no time be vested in or held in trust for me than five persons, except in cases where the said commissioners sh have already sanctioned a larger number of trustees, or such patrons shall pass by descent to coparceners, or by the custom of gavelkind more than five, or shall be conveyed by will or deed to more than children, grandchildren, nephews, or nieces of the grantor or devisor

VI. Provided always, that previous to such declaration of the na of nomination as aforesaid being made by the said commissione application in writing shall be made to the said commissioners, setti missioners pre- forth the population of the parish in which such church or chapel built or proposed to be built, together with the accommodation provid in the several churches or chapels built or building or intended to built within such parish, together with the population of the district which such church or chapel is intended to provide, and the accomm

defined proposed to be provided in such church or chapel, and its distime from the existing churches or chapels in the parish; and that 1 & 2 W. 4, copies of such application shall, in every such case, be sent by the said commissioners to the patron and incumbent respectively of the parish, chipelry, township, or extra-parochial place in which such church or Copies of such dapel is built or intended to be built, in order to afford such patron application and incumbent the opportunity of laying before the said commissioners to be sent to my statement relating thereto; and the said commissioners shall not the patron and declare, or signify their intention of declaring, such right of nomination incumbent of a storesaid, until after the expiration of three calendar months from the parish. the time when they shall have sent such copies to such patron and scumbent respectively, except in those cases where the said commisshall before the passing of this act have already expressed their mistaction with the endowments proposed, and their willingness to accede to the conditions proposed, and such church or chapel shall have

been built or be now building in pursuance thereof.

VII. That in all cases whatsoever under this act, any person or persons Persons intendintending to build or purchase and endow any such church, chapel, or ing to build and building as aforesaid, in any such parish as aforesaid, shall, in the first endow to give place, cause to be served upon the patron or patrons and incumbent of notice to the parish a notice in writing of such intention, which notice shall spe-patron and inthe various particulars herein-before mentioned, and shall also state cumbent, stathe number of persons intended to be accommodated in such church or ting partichapel, and the amount of money intended to be laid out in the building opurchasing thereof; and in case such patron or patrons shall, within If the patron two calendar months after being served with such notice as aforesaid, bind within two her, or themselves, by bond or other sufficient security, to the said mouths after commissioners in such cases as shall come before them, and to the bishop such notice If the diocese in all other cases, that he, she, or they shall within two years shall bind hereafter build or purchase, and completely finish and endow, an addi-himself to the diocese, and that he, she, or they shall also comply with and persatisfaction of
mail and singular the conditions herein before mentioned then and
satisfaction of om all and singular the conditions herein-before mentioned, then and the bishop of a such case such patron or patrons shall be preferred to any other per- the diocese, he or persons so intending to build or purchase such additional church shall be prew chapel as aforesaid: Provided always, that no declaration of the right ferred. *nominating a minister to any church or chapel built and endowed inder the provisions of this act shall in any case take effect until such durch or chapel shall have been duly consecrated: Provided always, hat in case any such church or chapel has been or shall hereafter be wilt or endowed by subscription, the application to the bishop or commesioners of the major part in value of the subscribers shall be beemed and taken to be the application of the party building or endowof the same: Provided always, that the churches or chapels already and completed on the faith of the said recited act of the seventh and eighth years of the reign of King George the Fourth be excepted to the two months' notice, such notice having already been given to is Majesty's said board of commissioners and incumbents when such hurches or chapels were built.

VIII. That where there is a population of not less than one thousand Preserence to ersons in any parish, district parish, district chapelry, or extra-paro- be given to place within two miles from an existing church, if there be any enlargement of kison or persons who shall be desirous of enlarging the church accom- churches in bodation therein, and who shall, with the consent of the select vestry certain cases. * persons exercising the powers of vestry in such parish, signify such heir intention to the bishop of the diocese, or to the said commissionthe case may be, and shall also bind themselves in a bond or ther sufficient security to the said bishop, or to the said commissionin, as the case may be, that they will within two years from the date declaring such their intention as aforesaid enlarge the existing thurch so as to add one fourth to its then existing church accommodabon, so that more than one third of the parishioners shall be accommo-

No. I. c. 38.

As soon as churches or chapels are finished and consecrated, the right of nomination to be vested in the persons building and

endowing.

dated, then and in all such cases such persons, having complied with 1 & 2 W. 4, such conditions as aforesaid, shall be preferred to any person or persons proposing to build and endow any new chapel in such parish or extra-parochial place under the provisions of this act: Provided always, that plans for the enlargement of such existing church shall in all cases be prepared, and, before the commencement of such enlargement, shall be laid before the bishop of the diocese, or the said commissioners, as the case may be, for his or their approbation thereof; and that a certificate from an architect employed therein, as to the due execution of such plans, shall in every case be sent to the said bishop, or to the said commissioners, as the case may be, on the completion of the enlargement of such church.

IX. That as soon as conveniently may be after any such church or chapel as aforesaid shall have been so built or purchased and endowed as aforesaid, and completely furnished and fitted up for the performance of Divine Service, and the other conditions herein-before mentioned shall have been performed, and the said church or chapel shall have been consecrated, the right of nominating a minister to the same, and also the land, ground, and site whereon the same shall be built, with the cemetery thereto belonging, if any, which land, ground, and site shall be specified and described in the sentence of consecration of the church or chapel, shall be and are hereby declared to be for ever vested in the person or persons building or purchasing and endowing the said church or chapel, his, her, or their heirs and assigns, or in such trustee or trustees, or ecclesiastical person or body corporate, as are herein-before mentioned, by such name and style as shall be specified in the sentence of consecration of the church or chapel; and such right of nomination shall and may be exercised without requiring the consent of the patron or incumbent of the parish or district in which such chapel shall be built, and notwithstanding no compensation shall have been made to them or either of them, without prejudice however to the fees herein-after mentioned; and such right of nomination, when vested in more than two persons, shall in all cases be exercised by the majority; and the person or persons in whom the said right of nomination, and the said land, ground, and site, shall be so vested, shall in every such case have perpetual succession in the name and style specified in the sentence of consecration, and shall hold the said right of nomination, and also the said lands, grounds, and sites so vested in them, as bodies corporate, by such name and style, without incurring or being subjected to any of the penalties or forfeitures of the statute of mortmain, or of any other law or statute whatsoever, to the use, intent, and purpose that every such church or chapel, with the cemetery to the same, if any, shall, when consecrated, be for ever thereafter set apart and dedicated to the service of Almighty God, as a place of divine worship according to the liturgy and usages of the united church of England and Ireland as by law established.

Commissioners to every church, and determine the offices to be performed therein.

X. That the said commissioners, with the consent of the bishop of or bishop may the diocese, in all such cases as shall come before them, and the assign a district bishop of the diocese alone in all such other cases as are herein-before mentioned, and also with the consent of the patron and incumbent in all other cases in which additional churches or chapels shall have been already built and endowed, shall, with all convenient speed, proceed to assign a particular district to every such church or chapel, except where from special circumstances they shall deem it not advisable to assign a district, and such district shall be under the immediate care of the minister who shall have been duly licensed to serve such church or chapel, so far only as regards the visitation of the sick and other pastoral duties, and shall not be deemed a district for any other purpose whatsoever: Provided always, that it shall be lawful for the said commissioners, with the consent of the bishop of the diocese, in all such cases as shall come before the said commissioners, and for the said bishop alone in all other cases, to determine whether baptisms, churchings, or

burials shall be solemnized or performed in any such church or chapel, or not; And the said commissioners or bishop respectively, as the case 1 & 2 W. 4, may be, shall cause a description of the boundaries of the district assigned by them to such church or chapel to be registered in the registry of the bishop of the diocese, and shall also cause their order and Boundaries of direction in writing, as to all offices to be performed in any such church the district to or chapel, to be registered in the registry of the diocese.

XI. Provided always, That in cases where the district to be provided Provision in for any church or chapel erected or to be erected shall extend into more cases where parishes than one, all the conditions hereby directed to be complied districts exwith shall be observed with respect to the patrons and incumbents of tend beyond each parish any part of which shall be comprised in such district, and one parish. the patron or patrons, incumbent or incumbents, of each such parish, shall be entitled to such and the same notices, and such and the same rights and privileges, as if such district were solely situate in one only

of such parishes.

XII. That every such church or chapel to which such particular dis-Churches or trict has been assigned as aforesaid shall be deemed a perpetual curacy, chapels to be and shall be considered in law as a benefice presentative, so far only as perpetual that the licence thereto shall operate in the same manner as institution curacies. to any such benefice, and shall render voidable other livings in like manner as institution to any such benefice; and the spiritual person serving the same shall be deemed the incumbent thereof; and such in- Powers and cumbents shall have perpetual succession, and shall be and are hereby duties of perdeclared to be bodies politic and corporate, and may receive and take sons serving such endowments in lands or tithes, or both, or any such augmentation, the same. as shall be granted to them or their successors; and all such incumbents, and all persons presenting or appointing any such incumbents, shall respectively be subject to all jurisdictions and laws, ecclesiastical or common, and to all provisions, regulations, penalties, and forfeitures contained in any acts of parliament in force relating thereto respectively; and in case of any failure or neglect in not presenting or nominating any such incumbent for the space of six months, such presentation or appointment shall thereupon lapse, as in cases of actual benefices; and Jurisdiction. all churches or chapels built or appropriated under the provisions of this act shall be subject to the jurisdiction of the bishop of the diocese and the archdeacon of the archdeaconry within which the same shall be locally situated.

XIII. That no such church or chapel to which a particular district has District been assigned as aforesaid shall be tenable or holden with the original churches not to church of the parish, chapelry, or place in which such church or chapel be held with has been built, or with any other benefice having cure of souls: Provi- the original. ded always, that no person holding any benefice shall be exempt from residence upon such benefice in respect of any duty which he may perform in any such church or chapel to which no district shall have been

assigned as aforesaid.

XIV. That where the said commissioners or bishop of the diocese The laws relarespectively, as the case may be, shall have determined that baptisms, ting to bapchurchings, or burials shall be solemnized or performed in any such tisms, burials, churches or chapels, all acts of parliament, laws, and customs relating &c. to apply to to the performance of such offices of the church shall apply to such the churches churches or chapels as to the performance of such offices respectively: hereby autho-Provided always, that all fees, dues, offerings, and other emoluments, rized to perwhich of right or custom belong to the incumbent or clerk of any form them. parish, chapelry, or place in which such church or chapel shall have Fees. been or shall be erected, shall be received by or for and on account of such incumbent and clerk respectively, and be paid over to them, any thing in the said recited acts contained to the contrary notwithstanding. except such portion of the said fees, dues, offerings, or other emoluments as the said commissioners, with the consents of the bishop of the diocese, the patron, and the said incumbent respectively, in those cases which shall come before the said commissioners, by order under their

c. 38. be registered.

No. I. 1 & 2 W. 4, c. 38.

To whom copies of applications shall be sent, in case the patronage of any place shall be in the crown.

common seal, or the bishop of the diocese alone, with the consent of the patron and incumbent, in all such other cases as herein-before mentioned, by order under his hand and seal, shall assign to the minister of such church or chapel; and every such instrument of assignment shall be registered in the registry of the bishop of the diocese within which such church or chapel shall be locally situated.

which such church or chapel shall be locally situated.

XV. Provided always, That where the patronage of any living or benefice of any parish, chapelry, or place as aforesaid shall be in the crown, and such living or benefice shall be above the yearly value of twenty pounds in the king's books, a copy of the application made to the said commissioners as aforesaid shall in every such case be sent to the lord high treasurer or first lord commissioner of the treasury for the time being, instead of being sent to the patron of such living or benefice, as herein-before directed; and that if such living or benefice shall not exceed the value of twenty pounds yearly in the king's books, a copy of the application as aforesaid shall in every such case be sent to the lord high chancellor, lord keeper or commissioners of the great seal, for the time being; and that if such living or benefice shall be within the patronage of the crown in right of the duchy of Lancaster, then in every such case a copy of the application as aforesaid shall be sent to the chancellor of the duchy for the time being, instead of being sent to the patron of such living or benefice, as herein-before directed; and the sending a copy of such application to the said party or parties, as the circumstances may be, shall be as effectual for the purposes of this act, in all such cases, as if the same had been sent to the patron of such living or benefice: Provided also, that in all cases respecting the building, endowment, or disposition of the patronage of any church or chapel heretofore built or hereafter to be built, where the patronage of the living or benefice in which such church or chapel is or shall be situate is in the crown, it shall and may be lawful for the lord high treasurer or first lord commissioner of the treasury for the time being (if such living or benefice shall exceed the value of twenty pounds yearly in the king's books), and for the lord high chancellor, lord keeper or commissioner of the great seal for the time being (if such living or benefice shall not exceed the value of twenty pounds yearly in the king's books), to give such consent by any instrument under his or their hand and seal or hands and seals, on behalf of the crown, and such consent shall be as binding and effectual to all intents and purposes as if given by the crown itself.

Churchwardens to be appointed.

XVI. That two fit and proper persons shall be appointed to act as churchwardens for every church or chapel built or appropriated under the provisions of this act, at the usual period of appointing parish officers in every year, and shall be chosen, one by the incumbent of the church or chapel for the time being, and the other by the renters of pews in such church or chapel; and the two persons, when so elected churchwardens, shall appear, and be admitted and sworn according to law, and shall collect and receive the rents of the seats and pews, and pay over the residue thereof which shall remain after the annual reservation aforesaid for repairs, and after paying the salary of the clerk, beadles, pew-openers, and other expences incident to the performance of Divine Service, to the minister of the said church or chapel, to be taken by the said minister to and for his own use by way of stipend, in addition to the yearly interest or dividends which shall arise from the landed or funded endowment herein-before mentioned; and the said churchwardens shall also do, perform, and execute all lawful acts, matters, and things necessary and requisite for and concerning the repairs, management, good order, and decency of behaviour to be kept and observed in the church or chapel by the congregation thereof; and the persons so to be appointed or chosen churchwardens shall continue in their said office until others, shall be chosen in like manner in their stead; and all the persons so chosen churchwardens are hereby authorized and empowered, in case of nonpayment of the rents of the seats

and pews of the church or chapel for which they shall be appointed, to enter upon and sell the same, or else to sue for and recover the same 1 & 2 W. 4, by action or actions for such rents, in the names of "The churchwardens of the church or chapel of" (describing the same), as the case shall or may require, without specifying the christian or surname of such churchwardens; and no such action shall abate by reason of the

death or removal or going out of office of any such churchwarden.

XVII. That from and after the expiration of five years after the property contransfer or conveyance of any messuages, lands, grounds, tenements, veyed for the or hereditaments to any person or persons, as a site for any church or site of any chapel, or any church or chapel yard or cemetery, under the provisions church under of this act, the said messuages, lands, grounds, tenements, or heredita- this act not to ments shall become and be and remain absolutely vested in the person be subject to or persons to whom the same are conveyed, his, her, or their heirs and question after assigns: Provided that any person to whom any messuages, lands, five years. grounds, tenements, or hereditaments shall have been conveyed for the purposes of this act shall, within two months after any judgment in ejectment shall have been obtained against him for such messuages, lands, grounds, tenements, or hereditaments, tender or pay to the lessor of the plaintiff in such ejectment his costs on such ejectment, and such sum of money as a jury shall in the manner herein-after mentioned find to have been the value of the said messuages, lands, grounds, tenements, or hereditaments, at the time when such messuages, lands, grounds, tenements, or hereditaments were conveyed for the purposes of this act.

No. I. c. 38.

XVIII. That the jury who shall try any ejectment brought for the The jury who recovery of any messuages, lands, grounds, tenements, or heredita-shall try any ments which have been conveyed for the purposes of this act, or if judg- ejectment, or a ment on ejectment shall have been obtained by default, or for not con-jury under a fessing lease, entry, and ouster, a jury under a writ of enquiry (which writ of enquiry, writ of enquiry the court in which such action shall be brought is shall ascertain hereby empowered to issue) shall ascertain the value of such messuages, the value of lands, grounds, tenements, or hereditaments at the time when they were the premises. conveyed for the purposes of this act; and the value so found shall be indorsed by the judge who tried the ejectment on the postea, or shall be returned to the court by the sheriff or under sheriff or other person before whom any writ of enquiry shall be executed under this act, in the same manner as other inquests are returned on writs of enquiry.

XIX. That the common seal of the said commissioners shall be affixed Nominations to every instrument declaring the right of nomination to such church or to be sealed chapel, in all such cases as shall come before the said commissioners; and registered. and that every instrument shall be registered in the registry of the bishop of the diocese within which such church or chapel shall be

locally situated.

XX. That where any deed or deeds shall have been sealed before the Declaring the passing of this act with the seal of the said commissioners, for the pur-validity of pose of declaring the right of nominating a minister to any chapel or deeds sealed chapels endowed to the satisfaction of the said commissioners, every before the such chapel shall be deemed to have been lawfully built, and every such passing of this deed shall be deemed and the same is hereby declared to be and to have act. been from the day of the date thereof valid for the purpose of declaring and vesting the right of nominating the minister to such chapel, and for effectuating the other objects of the said deed.

XXI. And whereas the said commissioners acting under the powers powers of act of the said recited act of the fifty-ninth year of the reign of King George 59 G. 3. exthe Third have executed deeds or instruments for the purpose of dis-tended to percharging subscribers towards building churches or chapels, and also sons subsubscribers towards purchasing sites on which churches or chapels scribing have been built, from the payment of pew rents in such churches or towards purchapels: and whereas doubts have arisen whether the powers of the chasing sites said act extend to cases of persons subscribing towards purchasing sites for churches for churches or chapels; be it enacted, That it shall be lawful for the or chapels.

No. I.

said commissioners, in any case in which they shall deem it expedient, 1 & 2 W. 4, to make and execute any deed or instrument, or to confirm any deed or instrument already made by them, discharging any person or persons subscribing towards either of the purposes aforesaid, either wholly or in part from the payment of pew rents in the said church or chapel for the term or period and in the manner in the said act mentioned; and all such deeds or instruments, whether hereafter to be made or already made, and afterwards confirmed in pursuance of the power hereby given, shall, as from the date and execution of such deed or instrument, be good and valid to all intents and purposes whatsoever; any thing in the said recited acts or any of them to the contrary notwithstanding.

Churches may provisions of recited acts as to pews.

XXII. That it shall be lawful for the said commissioners, if they shall be subjected to think fit, in all such cases as shall come before the said commissioners, to order and direct that such church or chapel shall be subject to all the provisions of the said recited acts or this act as to apportionment of accommodation in pews and free sittings, and as to pew rents.

If any person is willing to endow a chapel of ease, it may be separated from the parish church, and made a distinct parish.

XXIII. And whereas in certain parishes of large extent there exist chapels of ease at a considerable distance from the parish church, having chapelries, townships, or districts belonging or supposed to belong thereto; be it therefore enacted, that when any person or persons shall be willing to endow any such chapel with such a provision, secured upon land, money in the funds, tithes, or other hereditaments, as shall in the opinion of the bishop of the diocese be sufficient to ensure a competent stipend to the minister of such chapel, it shall be lawful for the bishop, with the consent of the patron and incumbent of the parish, by writing under his hand and seal, to declare that such chapel, when so endowed, shall thenceforth be separate from and independent of the parish church, and that the chapelry, township, or district belonging or supposed to belong thereto shall be thenceforth a separate and distinct parish for all spiritual purposes.

As to the future right of nomination to such chapel.

XXIV. That it shall be lawful for the patron, with consent of the incumbent, to make any agreement with the bishop of the diocese touching the future right of nominating a minister to such chapel, such agreement in writing to be signed and sealed by the bishop, patron, and incumbent; and that the right of nominating a minister to such chapel shall for ever thereafter be exercised according to the terms of such agreement: Provided always, that if the incumbent of any parish wherein such chapel of ease is situate shall refuse his consent to such separation or agreement, then the declaration of separation, and the deed of agreement touching the right of nominating a minister to such chapel, when signed and sealed by the bishop and patron, shall be good and valid in law, and shall take effect immediately after the next avoidance of the parish church, and not before; and every declaration of separation, and every deed of agreement, made under the provisions of this act, shall be registered in the registry of the diocese.

Churchwardens to be chosen for such new parish.

XXV. That two fit and proper persons shall be chosen yearly at the usual time of choosing parish officers, out of the inhabitants of such new parish so constituted, being members of the established church, to act as churchwardens of the said parish, one to be chosen by the minister, and one by the persons exercising the powers of vestry in the said new parish; and the persons so chosen shall be duly admitted and sworn, and shall do all things pertaining to the office of churchwardens, as to ecclesiastical matters, in the said new parish, in like manner as though the same had been of old time a separate and distinct parish.

Consent of patrons.

XXVI. That in all cases wherein the consent of the patron is required, under the provisions of this act or of any of the acts herein-before recited, the consent of bishops, deans, and chapters, or other ecclesiastical corporations or colleges, acting as patrons of benefices in right of their bishoprics, dignities, or corporate capacities, shall be as good and valid, for all the purposes of the said acts, as though such consent had been given by a patron in fee simple.

XXVII. That nothing in this act contained shall extend or be construed to extend to repeal, alter, vary, or affect any powers, authorities, 1 & 2 W. 4, clauses, or provisions contained in any act or acts passed relating to any particular parish or place, so far as relates to any church or chapel aiready built, unless with the consent of the patron and incumbent and Act not to of the select vestry or persons exercising the powers of vestry in such affect any parish or place, or contained in any deed or deeds of trust executed local act with under the sanction of the bishop of any diocese, for the regulation of respect to any church or chapel already built.

ready built, unless with the consent of the patron. XXVIII. That all the provisions of this act shall extend and be Act to extend construed to extend to the Isle of Man, and to the islands of Guernsey, to the Isle of Jersey, Alderney, and Sark. Man, &c.

No. I. churches al-

[No. II.] 2 & 3 W. IV, c. 61.—An Act to render more effectual an Act passed in the Fifty-ninth Year of His late Majesty King George the Third, intituled An Act to amend and render more effectual an Act passed in the last Session of Parliament, for building and promoting the building of additional Churches in populous Parishes.

[11th July 1832.]

WHEREAS an act was passed in the fifty-ninth year of the reign 59 G. 3, c. 134. of his late Majesty King George the third, intituled An Act to amend and render more effectual an Act passed in the last Session of Parliament, for building and promoting the building of additional Churches in populous perishes, whereby it is (amongst other things) enacted, that it should be lawful for the commissioners appointed for the execution of the thereinrecited act, with certain consents in the now-reciting act mentioned or referred to, to unite and consolidate contiguous parts of parishes and extra-parochial places into a separate and distinct district for all ecclesiastical purposes, and to make grants or loans towards the building of any chapel or chapels in any such district, and to constitute any such district a consolidated chapelry; and that all such chapelries should be deemed to be benefices, and be subject to the jurisdiction of the bishop and archdeacon within whose diocese and archdeaconry the altar of such chapel should be locally situate: and whereas doubts have arisen touching such jurisdiction in the case of chapels or districts situated wholly or in part within exempt or peculiar jurisdictions; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that every such chapel and district, whether situated wholly or in part Chapels within any exempt or peculiar jurisdiction, shall be subject to the juris- within exdiction of the bishop and archdeacon within the limits of whose diocese empt or and archdeaconry the altar of any such chapel shall be locally situate, peculiar jurisin as full and ample a manner as it would be if no part of such chapelry dictions to be were within some exempt or peculiar jurisdiction; and in every such subject to the case all other ecclesiastical jurisdiction over the said chapel and chapelry bishop within case all other ecclesiastical jurisdiction over the said chapel and chapelry whose diocese shall wholly cease, and no other such jurisdiction shall be exercised in the altar is lothe said chapelry, save and except the jurisdiction of the bishop and cally situate. archdeacon as aforesaid; any law, usage, or custom to the contrary notwithstanding.

As to marriages solemnized in churches built under 59 Geo. 3, c 134.

[See 11 G. 4, c. 18, s. 3, post CLASS III.]

No. III. 3 & 4 W. 4, c. 30.

[No. III.] 3 & 4 W. 4, c. 30.—An Act to exempt from Poor and Church Rates all Churches, Chapels, and other Places of Religious Worship. [24th July 1833.] WHEREAS it is expedient that churches, chapels, and other places

from the payment of poor and church rates: Be it therefore enacted &c., That from after the first day of October one thousand eight hundred and

exclusively appropriated to public religious worship should be exempt

No persons liable to be rated for places exclusively appropriated to public religious worship.

thirty-three no person or persons shall be rated or shall be liable to be rated, or to pay to any church or poor rates or cesses, for or in respect of any churches, district churches, chapels, meeting houses, or premises, or such part thereof as shall be exclusively appropriated to public religious worship, and which (other than churches, district churches, and

episcopal chapels of the established church) shall be duly certified for the performance of such religious worship according to the provision of any act or acts now in force: Provided always, that no person or Proviso respersons shall be hereby exempted from any such rates or cesses for or pecting places in respect of any parts of such churches, district churches, chapels, not so exclumeeting houses, or other premises which are not so exclusively approsively appriated, and from which parts not so exclusively appropriated such propriated. person or persons shall receive any rent or rents, or shall derive profit

or advantage. II. Provided always, and be it enacted, That no person or persons Persons not shall be liable to any such rates or cesses because the said churches, liable to rates because part of district churches, chapels, meeting houses, or other premises, or any premises may be used for schools.

vestry rooms belonging thereto, or any part thereof, may be used for Sunday or infant schools, or for the charitable education of the poor.

[No. IV.] 5 & 6 W. 4, c. 30.—An Act for protecting the Revenues of vacant Ecclesiastical Dignities, Prebends, Canonries, and Benefices without Cure of Souls, and for preventing the Lapse thereof, during the pending Inquiries respecting the State of the Established Church in England and Wales. [21st August 1835.]

WHEREAS his Majesty was pleased, on the fourth day of February last, to issue a commission to certain persons therein named for considering the state of the established church in England and Wales with reference to ecclesiastical duties and revenues, which commission has since been renewed, and such renewed commission is now in force, and the inquiries thereby directed are now in progress, and some time must elapse before the same can be brought to a termination: And whereas his Majesty has been graciously pleased to signify, that, in order to promote the important objects of the said commission, it is his Majesty's intention to defer any nomination to any vacant dignity, prebend, canonry, or benefice without cure of souls which may be in the patronage of the crown until the circumstances connected therewith shall have undergone the consideration of the said commissioners; and the two archbishops, and divers of the bishops of England and Wales, have declared their intention of pursuing the same course with regard to similar preferments in their respective patronage (excepting only the dignity of archdeacon), and a similar declaration has been made by certain other patrons: And whereas several dignities, prebends, canonries, and benefices without cure of souls have become vacant since the said fourth day of February last, and others may become vacant pending the said inquiries now in progress; and it is expedient that the same should remain vacant until it shall be decided in what mode they can be disposed of so as to be made most conducive to the efficiency of the established church; and with that view it is necessary to provide that due care be taken of the revenues of such dignities, prebends, canonries,

and benefices, and that the right of presentation or collation thereto shall not lapse by reason of delay in such presentation or collation: Be it 5 & 6 W. 4, therefore enacted, &c., That where any dignity, prebend, canonry, or benefice without cure of souls, being in the patronage of his Majesty, or of any archbishop, bishop, or other patron in England or Wales, has Profits of dig. become vacant since the said fourth day of February last, or shall become nities or benevacant during the existence of the said commission now in force, or of fices without any renewal thereof, all profits and emoluments which have arisen or cure of souls accrued, and which shall arise and accrue, from every such vacant dig-becoming vanity, prebend, canonry, or benefice, until a successor shall have been cant during the appointed thereto, whether from houses, lands, tithes, or hereditaments the ecclesiasto the same belonging, or from rents, fines, compositions, dividends, or tical commisother emoluments belonging to any chapter or other aggregate body of sion to be paid which the dignitary, prebendary, canon, or incumbent last in possession to the treawas a member, shall be paid to the treasurer for the time being of the surer of Queen governors of the bounty of Queen Anne, in as full and ample manner as Anne's such dignitary, prebendary, canon, or incumbent, if he had remained in Bounty. possession, or his successor, if duly appointed, inducted, or installed, would be entitled to receive the same; and such treasurer shall, for the purpose of enforcing payment of all such profits and emoluments, have and enjoy all legal rights, powers, and remedies, whether by action, suit, or distress, as the case may be, which would belong to such successor: Provided always, that such treasurer shall not have the power of granting any lease, or of presenting to any benefice with cure of souls: Provided also, that such treasurer shall not be answerable or accountable for any monies payable by virtue of this act which shall not have been actually received by him.

II. That such treasurer shall keep an account of all sums received by Treasurer to him under this act separate from all other funds in his hands, and dis-keep an actinguishing each dignity or benefice in respect whereof the same shall count of the be received, and shall allow all costs, expences, and outgoings which receipts, and would have fallen on the deceased incumbent, or may be reasonably allow exincurred in the receipt of or enforcing the payment of the sums received, pences. the amount thereof being allowed by the governors of the said bounty for the time being, and shall retain the balance in his hands until he

shall be otherwise ordered by competent authority.

III. Provided always, That nothing in this act contained shall apply Excepting such to or affect any profits or emoluments of any dignity, prebend, canonry, profits of or benefice now vacant, which shall have been already divided or carried dignities now to any particular account, according to the statutes, customs, or usages vacant as are of the cathedral or collegiate church in which such dignity may be already founded.

IV. Provided also, That nothing in this act contained shall prevent Not to prevent his Majesty, or any archbishop, bishop, or other patron of any dignity, patrons from prebend, canonry, or benefice without cure of souls, which may have or appointing, if hereafter shall become vacant, from appointing a successor thereto in they think pro-

case he shall think proper to do so.

V. That where any benefice with cure of souls, being in the patronage of Providing for the holder or incumbent of any such dignity, prebend, canonry, or bene- the presentafice as aforesaid without cure of souls, shall have become, or shall become tion to benevacant during the vacancy of such last-mentioned dignity, prebend, ca- fices in the nonry, or benefice, the patron of such last-mentioned dignity, prebend, patronage of canonry, or benefice shall be entitled to present to such benefice with cure dignity, &c. of souls.

VI. That the right of presentation or collation to any dignity, prebend, Right of precanonry, or benefice without cure of souls so become or becoming vacant sentation to as afores aid shall not, by reason of any delay in presenting or collating vacant dignity thereto, lange to any higher or archbigher or to the king's Majesty, or benefice not thereto, lapse to any bishop or archbishop, or to the king's Majesty; or benen any law or custom to the contrary notwithstanding: Provided always, that the patron of such vacant dignity, prebend, canonry, or benefice Treasurer of shall within six months after the vacancy give notice thereof in writing Queen Anne's to the commissioners herein-before mentioned, who shall transmit a Bounty to

No. IV.

appropriated.

collect the profits of the vacant benefice, &c

No IV. 5 & 6 W. 4, c. 30.

copy of such notice to the said treasurer; and the said treasurer shall, upon receipt thereof, forthwith proceed to demand, collect, and receive, and shall, during the time that such dignity or benefice shall remain liable to the provisions of this act, continue from time to time to demand, collect, and receive the profits and emoluments as they shall respectively become due and payable, and shall diligently use and exercise all the powers and authorities hereby to him given for duly and regularly enforcing the payment thereof.

[For the 2 and 3 W. 4, c. 80, authorizing the identifying of lands and other possessions belonging to certain ecclesiastical and collegiate cor-

porations. See post, Class V. Corporations.

Under the provisions of the 2 & 3 W. 4, c. 71, prescriptive rights may now be established against ecclesiastical persons upon an enjoyment for a much shorter period than formerly, and Spiritual Corporations sole are within the recent statute of Limitations, 3 & 4 W. 4, c. 27. See post, Part 4, Class VIII. LIMITATIONS.

Also by the 2 & 3 W. 4, c. 100, claims to tithes by ecclesiastical persons are considerably limited. See post, Part 2, Class II. TITHES.

PART I.

CLASS III.

MARRIAGE.

[No. I.] 11 Geo. IV, c. 18.—An act to render valid Marriages solemnized in certain Churches and Chapels.

[29th May 1830.]

WHEREAS, by an act passed in the fourth year of the reign of his present Majesty, intituled An act for amending the Laws respecting 4 G. 4, c. 76. the Solemnization of Marriages in England, it is provided, that if the church of any parish, or chapel of any chapelry, wherein marriages have been usually solemnized, be demolished in order to be rebuilt, or be under repair, and on such account be disused for public service, it shall be lawful for the banns to be proclaimed in a church or chapel of any adjoining parish or chapelry in which banns are usually proclaimed, or in any place within the limits of the parish or chapelry which shall be licensed by the bishop of the diocese for the performance of Divine Service during the repair or rebuilding of the church as aforesaid: And whereas by an act passed in the fifth year of the reign of his present Majesty, intituled An Act to amend an Act passed in the last Session of 5 G. 4, c. 32. Parliament, intituled An Act for amending the Laws respecting the Solemmization of Marriages in England, it was enacted, that all marriages which had been theretofore solemnized, or which should be thereafter solemnized, in any place within the limits of such parish or chapelry so licensed as aforesaid for the performance of Divine Service during the repair or rebuilding of the church of any parish, or chapel of any chapelry, wherein marriages had been usually solemnized, or if no such place should be solicensed, then in a church or chapel of any adjoining parish or chapelry in which banns were usually proclaimed, whether by banns lawfully published in such church or chapel, or by license lawfully granted, should not have their validity questioned on account of their having been so solemnized, nor should the ministers who had so solemnized the same be liable to any ecclesiastical censure or to any other proceeding whatsoever: And whereas the ministers of certain parish churches and chapels of chapelries have, during the repair or re-building of such churches or chapels, published the banns of marriages in some places within the limits of their parishes or chapelries respectively wherein Divine Service has been usually performed during the time of such repair or re-building, but have solemnized the marriages themselves in the churches or chapels of the same or of some adjoining parishes or chapelries: And whereas other clergymen, during the time of such repair or re-building, have published banns of marriage and solemnized marriages in places duly licensed for the performance of Divine Worship, according to the forms of the united church of England and Ireland, within their respective parishes or chapelries, but not licensed specially for such performance during such time as aforesaid: And whereas it is expedient that the marriages so solemnized should not on that account have their validity questioned; be it therefore enacted by the king's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That all marriages, the banns The validity of whereof have been published in any place used for the performance of marriages Divine Service within the limits of any parish or chapelry during the solemnized repairs or rebuilding of the church or chapel thereof, which marriages under the cirhave been solemnized either in the said place so used or in the church cumstances or chapel of the same or of some adjoining parish or chapelry during herein men-

tioned, not to be questioned.

No. I.

During the time that any church, &c. is under repair the bishop may direct banns to be published in any consecrated chapel of the parish.

For removing doubts as to marriages solemnized in churches made and constituted under Acts 58 G.3, c.45, and

26 G. 2, c. 33.

The validity of marriages solemnized in certain chapels not to be questioned;

nor marriages solemnized in chapels, the consecration of which may be doubted.

such repair or re-building, shall not have their validity questioned on 11 G. 4, c. 18. account of having been so solemnized.

II. That in every case in which the church of any parish or place, in which banns of marriage may be published and marriages solemnized, shall be pulled down, or be rebuilding or under repair, it shall be lawful for the bishop of the diocese to order and direct that banns of marriage may be published and marriages solemnized in any consecrated chapel of such parish or place which he shall by order in writing direct, until the church shall again be opened for the performance of Divine Service; and during all such period the said consecrated chapel shall, for all purposes relating to the publication of banns of marriage and to the solemnization of marriages, be deemed and taken to be the church of the parish, any thing in any act or acts to the contrary notwithstanding; and the fees in respect thereof shall be applied, during such period, as the bishop of the diocese shall, with the consent of the incumbent, order and direct.

III. And whereas doubts have arisen touching the validity of marriages solemnized in churches which have been made and constituted the churches of distinct parishes, or district parishes, under the provisions of an act passed in the fifty-eighth year of his late Majesty, intituled An Act for building and promoting the building of additional churches in populous parishes; and also of an act passed in the fifty-ninth year of his late Majesty, intituled An Act to amend and render more effectual an Act passed in the last Session of Parliament, for building and 59 G. 3, c. 134. promoting the building of additional Churches in populous Parishes: And whereas it is expedient that such doubts should be removed; therefore be it enacted, That all marriages which have already been solemnized, or may hereafter be solemnized, in any church which shall have been made and constituted the church of a distinct parish, or of a district parish, as aforesaid, after consecration thereof and assignment of a district thereto, shall be as good and valid in law as if such marriages had been solemnized in any parish church wherein banns had been usually published before or at the time of passing an act made in the twentysixth year of king George the second, intituled An Act for the better prevention of clandestine Marriages.

IV. And whereas, by error, banns have been published, and divers marriages have been solemnized, in chapels duly consecrated, but in which chapels banns cannot be legally published, nor marriages by law be solemnized; and it is expedient to remove all doubts arising from the circumstances aforesaid touching the due publication of such banns and the validity of such marriages; therefore be it enacted, That all banns already published, and all marriages already solemnized, in such chapels as aforesaid, shall not hereafter be questioned on account of the said banns having been published, or the said marriages solemnized, in a chapel not legally authorized for the publication of banns and the solemnization of marriages: Provided always, that nothing herein contained shall extend or to be construed to extend to authorize the publication of banns or the solemnization of marriages in such chapels hereafter.

V. And whereas divers marriages have taken place in chapels supposed to be consecrated, the consecration of which chapels, however, cannot be proved, and may be doubted: And whereas it is expedient that all apprehensions touching the validity of such marriages, on this account, should entirely be removed; be it therefore enacted. That the validity of such marriages shall not hereafter be questioned on account of the uncertainty respecting the consecration of such chapels.

[No. II.] 3 & 4 W. IV. c. 45.—An Act to declare valid Marriages solemnized at Hamburgh since the abolition of 3 & 4 W. 4, the British Factory there. [14th August 1833.]

No. 11. c. 45.

WHEREAS the British factory at Hamburgh was dissolved, and the privileges thereof abolished, in the year one thousand eight hundred and eight: and whereas divers marriages of subjects of this realm resident in Hamburgh have since the abolition of the said factory and privileges been solemnized there by the chaplain appointed by the Lord Bishop of London, or some minister of the church of England officiating instead of such chaplain, in the British episcopal chapel, and in private houses in that city, before witnesses, according to the rites of the church of England: and whereas it is expedient that no doubts should hereafter arise as to the validity of such marriages: may it therefore be declared and enacted; and be it declared and enacted, &c. That all marriages of Marriages leparties subjects, or parties one of them being a subject of this realm, gally solemwhich have been solemnized at Hamburgh since the abolition of the nized at British factory there, by the chaplain appointed by the Lord Bishop of Hamburgh London, or by any ministers of the church of England officiating instead since the aboof such chaplain, in the episcopal chapel of the said city, or in any other lition of place, before witnesses, according to the rites of the church of England, shall be good and valid in law to all intents and purposes as if the same declared valid. had been solemnized in the British factory at Hamburgh before the abolition thereof.

[No. III.] 4 & 5 W. IV. c. 28.—An Act to amend the Laws relative to Marriages celebrated by Roman Catholic Priests and Ministers not of the Established Church in Scotland. [25th July 1834.]

WHEREAS an act was passed in the parliament of Scotland in the 4 & 5 W 4, first session of the first parliament of King Charles the Second, in- c. 28. tituled Act against clandestine and unlawful Marriages; and another act 1 Parl. Car. 9. was passed in the seventh session of the said first parliament of King Sess. 1, c. 34, William, intituled Act against clandestine and irregular Marriages: and An. 1661. whereas by the said recited acts, or one or other of them, Roman Catholic 1 Parl. Will. priests, and other ministers not of the established church of Scotland, Sess. 7, c. 6, celebrating marriages, and persons married by such clergymen in Scot. An. 1698. land, are rendered liable to certain punishments, pains, and penalties: and whereas it is expedient that the said acts should be altered and amended: be it therefore enacted, &c. That from and after the passing So much of of this act, so much of the said recited acts as prohibits the celebration of recited acts as marriages in Scotland by Roman Catholic priests or other ministers not prohibits marbelonging to the established church of Scotland, or imposes any fine, Roman Cathopain, or penalty on persons so married, or on the priests or ministers lic priests in celebrating such marriages or marrying such persons, shall be and it is Scotland rebereby repealed.

II. That it shall be lawful to all persons in Scotland, after due pro- Persons in clamation of banns there, to be married by priests or ministers not of Scotland may the established church, and also for such priests or ministers to celebrate be married by marriages without being subject to any punishment, pains, or penalty priests not of whatever; any thing in the said recited acts, or in any other act or acts established of parliament, to the contrary notwithstanding.

III. That the said recited acts shall, excepting in so far as the same Recited acts have already been or are hereby repealed or altered, remain in full force, to remain in authority, and effect.

No. IV. 3 & 4 W. 4, c. 102.

acts herein

6 Anne (1.)

12 G. 1, (1.)

23 G. 2, (1.)

12 G. 3, (1.)

named of

[No. IV.] 3 & 4 W. IV. c. 102.—An Act to repeal certain penal Enactments made in the Parliament of Ireland against Roman Catholic Clergymen for celebrating Marriages contrary to the Provisions of certain Acts made in the Parliament of Ireland. [29th August 1833.]

WHEREAS Roman Catholic clergymen were by certain acts of the parliament of Ireland rendered liable to punishment, pains, and penalties for celebrating marriages contrary to the provisions thereof, to which punishment, pains, and penalties no other clergymen or ministers are liable: and whereas it is expedient to amend the law in this respect: So much of the be it therefore enacted, &c. That so much of the followin gacts made in the parliament of Ireland, (that is to say,) of an act passed in the sixth year of the reign of Queen Anne, intituled An Act for the more effectual preventing the taking away and marrying Children against the will of their Parents or Guardians; also of an act passed in the twelfth year of the reign of King George the First, intituled An Act to prevent Marriages by degraded Clergymen and Popish Priests; and for preventing Marriages consummated from being avoided by Pre-contracts, and for the more effectual preventing of Bigamy; also of an act passed in the twenty-third year of the reign of King George the Second, intituled An Act for explaining and making more effectual an Act, intituled 'An Act for the more effectual preventing of clandestine Marriages;' and another act passed in the twelfth year of his late Majesty's reign, intituled An Act for preventing Marriages by degraded Clergymen and Popish Priests, and for preventing Marriages consummated from being avoided by Pre-contracts, and for the more effectual punishing of Bigamy; also of an act passed in the thirtythird year of the reign of King George the Third, intituled An Act for the Relief of his Majesty's Popish or Roman Catholic Subjects of Ireland, as contains any penal enactment which exclusively affects a Roman Catholic clergyman celebrating marriage between any persons, knowing

them or either of them at the time of such marriage to be of the Pro-

testant religion, or as declares or enacts that any Roman Catholic

clergyman who shall celebrate any marriage between two Protestants or

reputed Protestants, or between a Protestant or reputed Protestant and

a Roman Catholic, shall be guilty of felony, and suffer death as a felon, without benefit of clergy or of the statute, or as enacts and declares that any Roman Catholic clergyman who shall celebrate any marriage between two Protestants, or between any such Protestant and Papist, unless such Protestant and Papist shall have been first married by a clergyman of the Protestant religion, shall forfeit the sum of five hundred pounds to his Majesty upon conviction thereof, shall from and after the passing of this act be repealed, and that so much and such parts only of the said recited

33 G. 3, (1.) as makes it felony for Roman Catholic clergymen to celebrate marriages between Protestants, &c. repealed.

> II. Provided always, that nothing herein contained shall extend to any proceeding, criminal or civil, commenced before the passing of this act; and that nothing herein contained shall be construed to repeal so much of any of the said recited acts as expressly or by implication repeals any former act or acts, nor to revive or recognize any enactment as being in force at the time of the passing of this act which by any act heretofore made was expressly or by implication repealed or altered.

III. That nothing in this act shall extend or be construed to extend to Act not to give the giving validity to any marriage ceremony in Ireland, which ceremony is not now valid under the existing laws, or to the repeal of any now valid, &c. enactments now in force for preventing the performance of the marriage

ceremony by degraded clergymen.

acts are hereby repealed. Nothing herein to extend to any former proceedings, nor to affect any of the recited acts that repeal former acts.

ceremony not

[No. V.] 5 & 6 W. IV. c. 54.—An Act to render certain Marriages valid, and to alter the Law with respect to certain [31st August 1835]. voidable Marriages.

No. V. 5 & 6 W. 4, c. 54.

W'HEREAS marriages between persons within the prohibited degrees are voidable only by sentence of the ecclesiastical court pronounced during the lifetime of both the parties thereto, and it is unreasonable that the state and condition of the children of marriages between persons within the prohibited degrees of affinity should remain unsettled during solong a period, and it is fitting that all marriages which may hereafter be celebrated between persons within the prohibited degrees of consanguinity or affinity should be ipso facto void, and not merely voidable: k it therefore enacted, &c. That all marriages which shall have been cele- Marriages bebrated before the passing of this act between persons being within the fore the passing prohibited degrees of affinity shall not hereafter be annulled for that of this act of cause by any sentence of the ecclesiastical court, unless pronounced in a persons within wit which shall be depending at the time of the passing of this act: the prohibited provided that nothing hereinbefore enacted shall affect marriages between persons being within the prohibited degrees of consanguinity.

degrees not to be annulled.

II. That all marriages which shall hereafter be celebrated between Marriages of persons within the prohibited degrees of consanguinity or affinity shall persons within be absolutely null and void to all intents and purposes whatsoever.

prohibited degrees hereafter to be absolutely void.

III. Provided always, that nothing in this act shall be construed to Not to extend extend to that part of the United Kingdom called Scotland. to Scotland.

PART I.

CLASS IV.

PARENT AND CHILD.

[There has been no recent statute on this subject. The provisions of the new Poor Law Act, (4 and 5 W. 4, c. 76,) with respect to Bastards will be found under Part VI., Justices of the Peace, Class 28, Poor.]

PART I.

CLASS V.

CORPORATIONS.

[No. I.] 1 W. IV. c. 21.—An act to improve the Proceedings in Prohibition and on Writs of Mandamus. [30th March 1831.]

WHEREAS the filing a suggestion of record on application for a writ of prohibition is productive of unnecessary expence, and the allegation of contempt in a declaration in prohibition filed before writ issued is an unnecessary form; and it is expedient to make some better provision for payment of costs in cases of prohibition; be it enacted, &c. That it shall not be necessary to file a suggestion on any application for a writ of prohibition, but such application may be made on affidavits only; and in case the party applying shall be directed to declare in prohibition before writ issued, such declaration shall be expressed to be on behalf of such party only, and not, as heretofore, on the behalf of the party and of his Majesty, and shall contain and set forth in a concise party is directed manner so much only of the proceeding in the court below as may be necessary to shew the ground of the application, without alleging the delivery of a writ or any contempt, and shall conclude by praying that Defendant may a writ of prohibition may issue; to which declaration the party defendant may demur, or plead such matters, by way of traverse or otherwise, as may be proper to shew that the writ ought not to issue, and conclude by praying that such writ may not issue; and judgment shall be given, that the writ of prohibition do or do not issue, as justice may require; and the party in whose favour judgment shall be given, whether on nonsuit, verdict, demurrer, or otherwise, shall be entitled to the costs attending the application and subsequent proceedings, and have judgment to recover the same; and in case a verdict shall be given for the party plaintiff in such declaration, it shall be lawful for the jury to assess damages, for which judgment shall also be given, but such assessment shall not be necessary to entitle the plaintiff to costs.

Damages.

Applications

for writs of

prohibitions

may be made on

affidavitonly.

Contents of

declaration

in case the

to declare in

prohibition.

demur to de-

claration.

Judgment.

Costs.

So much of 2 & 3 Ed. 6, c. 13, as relates

to prohibition repealed. The enactments of 9 Anne, c. 20, relating to of mandamus therein menproceedings thereon, extended to all other writs of mandamus.

II. That so much of an act passed in the second and third years of the reign of king Edward the sixth, intituled, An Act for Payment of Tithes, as relates to prohibition, shall be and the same is hereby

repealed. III. And whereas the provisions contained in a certain act of parliament passed in the ninth year of the reign of Queen Anne, intituled, An Act for rendering the Proceedings upon Writs of Mandamus and Informations in the nature of a Quo warranto more speedy and effectual, returns to write and for the more easy trying and determining the rights of Offices and Franchises in Corporations and Boronghs, relating to the writs of mandamus therein mentioned, have been found useful and convenient, and tioned, and the the same ought to be extended to the proceeding on other such writs: be it therefore enacted, That the several enactments contained in the said statute relating to the return to write of mandamus, and the proceedings on such returns, and to the recovery of damages and costs, shall be and the same are hereby extended and made applicable to all other writs of mandamus, and the proceedings thereon, except so far only as the same may be varied or altered by this act.

IV. And whereas writs of mandamus, other than such as relate to the For protection offices and franchises mentioned in or provided for by the said act madeof certain in the ninth year of the reign of Queen Anne, are sometimes isued to officers to

whom writs of mandamus are directed.

officers and other persons, commanding them to admit to offices, or d or perform other matters, in respect whereof the persons to whom such 1 W. 4, c. 21. writs are directed claim no right or interest, or whose functions are merely ministerial in relation to such offices or matters; and it may be proper that such officers and persons should in certain cases be protected against the payment of damages or costs to which they may otherwise become liable; be it therefore enacted, That it shall be lawful for the court to which application may be made for any writ of mandamus, (other than such as relate to the said offices and franchises mentioned in or provided for by the said act made in the reign of Queen Anne,) if such court shall see fit so to do, to make rules and orders, calling not only upon the person to whom such writ may be required to issue, but also all and every other person having or claiming any right or interest in or to the matter of such writ, to shew cause against the issuing of such writ and payment of costs of the application, and upon the appearance of such other person in compliance with such rules, or in default of appearance after service thereof, to exercise all such powers and authorities, and make all such rules and orders, applicable to the case, as are or may be given or mentioned by or in any act passed or to be passed during this present session of parliament for giving relief against adverse claims made upon persons having no interest in the subject of such claims: Provided always, that the return to be made to any such writ, and issues joined in fact or in law upon any traverse thereof, or upon any demurrer, shall be made and joined by and in the name of the person to whom such writ shall be directed; but nevertheless the same shall and may, if the court shall think fit so to direct, be expressed to be made and joined on the behalf of such other person as may be mentioned in such rules; and in that case such other person shall be permitted to frame the return, and to conduct the subsequent proceedings, at his own expence; and in such case, if any judgment shall be given, for or against the party suing such writ, such judgment shall be given against or for the person or persons on whose behalf the return shall be expressed to be made, and who shall have the like remedy for the recovery of costs and enforcing the judgment as the person to whom the writ shall have been directed might and would otherwise have had.

V. That in case the return to any such writ, shall, in pursuance of Proceedings the authority given by this act, be expressed to be made on behalf of not to abate by any other person as aforesaid, the further proceedings on such writ shall removal of not abate or be discontinued by the death or resignation of, or removal officer. from office of, the person having made such return, but the same shall and may be continued and carried on in the name of such person; and if a peremptory writ shall be awarded, the same shall and may be di-

rected to any successor in office or right to such person.

VI. And for making some further provision for the payment of costs Costs to be in on applications for mandamus, be it further enacted, That in all cases the discretion of application for any writ of mandamus whatsoever, the costs of such of the court. application, whether the writ shall be granted or refused, and also the costs of the writ, if the same shall be issued and obeyed, shall be in the discretion of the court, and the court is hereby authorized to order and direct by whom and to whom the same shall be paid.

It was held that the above statute did not apply to cases where the proceeding had commenced before the statute came into operation. Rez v. Inhabitants of Wix, 2 Barn. and Adol. 197, and Rex v. Hungerford

Merket Company, 2 Barn. and Adol. 204, note.

Under the 6th section the costs of a mandamus and of applying for it may be obtained by a distinct motion, after the issuing of the writ, and upon such a motion the court will refer for its guidance to the affidavits filed in support of the application for a mandamus, if it be clear that both applications are made by the same parties. Rex v. Kirke, 5 Barn. and Adol. 1089.]

No. II. 2 & 3 W. 4, c. 69.

[No. II.] 2 and 3 W. IV. c. 69.—An Act to prevent the Application of Corporate Property to the Purposes of Election of Members to serve in Parliament.

[1st August 1832.]

WHEREAS the property belonging to cities, towns, cinque ports, and boroughs corporate in the United Kingdom of Great Britain and Ireland may be wasted and dissipated by the application thereof in or towards the expences attendant upon parliamentary elections, to the great detriment of such municipal corporations; and it is expedient to make provision to prevent such detriment, and also to ensure the freedom of election by restraining the application of corporate property as before-mentioned: be it therefore enacted, &c.: That from and after the passing of this act it shall not be lawful for any municipal corporation as aforesaid, or any court, guild, council, or assembly constituting or composed of the ruling or governing part or class thereof, or any corporate officer, trustee, or other person acting on behalf of such corporation or any part thereof, to pay, transfer, give, bestow, or apply any, sum or sums of money, or any parliamentary or other stocks, funds, or securities for money, or any personal chattel, belonging to or vested in the same corporation or any part thereof, or in any individual in to be applied in trust for, or for the benefit of such corporation, in satisfaction, comor towards par- pensation, or discharge of any expences incident to or incurred or occasioned by the election of a member to serve in the commons house of parliament, or by any person offering himself as a candidate at or previous to a parliamentary election; and that all bonds, covenants, recognizances, or judgments given, executed, or suffered by any such corporation, or any part or class thereof, or by any corporate officer, trustee, or other person in the name or on the behalf of such corporation, for the purpose of securing the payment of such expences, shall and all bonds, be utterly void.

Monies or personal property belonging to municipal corporations not liamentary elections:

&c. for securing the same void.

Payments, &c. made for the purpose of inson to exert tions at a future time to be considered as with in this act.

for the purpose of satisfying or securing any expences hereby prohibited, to be void.

All votes and other proceedings contrary to this act to be void.

II. That any gifts, transfers, payments, or gratuities, bonds, covenants, recognizances, or judgments, made, paid, given, executed, or suffered by any corporation, part of a corporation, or corporate officer, or trustee, or other person as aforesaid, for the purpose of inducing or influencing any person or persons to labour in parliamentary elections at a future time, or to pay, satisfy, or incur any such expences as aforesaid at a future time, shall be deemed to be payments, transfers, applications, ducing any per- and securities forbidden and declared void by this act, although the same may be ostensibly and colourably made, paid, given, executed, or himself in elec- suffered for any other cause or consideration.

III. That all conveyances, mortgages, leases, or other assurances or dispositions of lands, tenements, or hereditaments, belonging to or vested in or held in trust for any municipal corporation, made or executed for the purpose of securing, satisfying, or compensating any All dispositions expences, debts, payments, or disbursements, liabilities or engagements, of real property, incurred or to be incurred by the same corporation, or any part or class thereof, or any member, officer, or trustee thereof, or by any other person on behalf of such corporation, contrary to the true intent and meaning of this act, and all estates, charges, and incumbrances thereby created, shall be utterly void.

IV. That all votes, orders, or resolutions, acts, bye laws, or other proceedings made, passed, or adopted by any municipal corporation, or any part or class thereof, or any member or members thereof, for the purpose of directing or authorizing, or pretending to direct or authorize, any payment, matter, or thing forbidden by this act, or for the purpose of evading the provisions hereby enacted, shall be utterly void.

V. That any corporate officer, trustee, or other person who shall make or concur in making any payment, transfer, or application of cor- 2 & 3 W. 4, poration money, stocks, funds, or securities, or personal chattel, as aforesaid, contrary to the true intent and meaning of this act, shall be deemed and taken to have made the same in his own wrong, and that Corporate he shall be individually liable to repay, satisfy, and make good the officers or amount or value thereof to the same corporation, notwithstanding any others making release or pretended indemnity which may be given to him in the name any payment of the same corporation or any part or class thereof, or by any person contrary to this er persons on behalf of such corporation. good the amount or value so misapplied.

No. II.

VI. And in order to frustrate any fraudulent connivance or conceal- Corporators ment, be it enacted, That it shall and may be lawful for any two or empowered to more freemen, burgesses, or corporators of such municipal corporation bring actions to commence, bring, and prosecute any action or suit at law or in or suits in the equity, in the name of the same corporation, against any officer, trustee, name of the or other person who may have made such illegal payment, transfer, or corporation. application as above mentioned, in the same manner, to all intents and purposes, as if they, their executors and administrators, were jointly and severally appointed the irrevocable attorneys of such corporation for that purpose: Provided nevertheless, that before the defendant in such action or suit shall be required to plead or answer, the plaintiffs shall give reasonable security for payment of costs, in case any shall become due from them, by the event of the action or suit, in such manner as the court in which the same shall be brought may direct; such costs to be taxed as between attorney and client.

VII. That any member of a municipal corporation who shall autho- Members of rize, direct, or command any payment, transfer, or application hereby corporations forbidden, or who shall assent to or concur or participate in any affirm- offending ative vote, order, or proceeding relating thereto, or shall sign or seal in against this act his individual capacity or affix the corporate seal to any deed or instru-guilty of a ment hereby declared void, shall be guilty of a misdemeanor, and, being misdemeanor. thereof legally convicted in his Majesty's court of King's Bench at Westminster, shall, in addition to such punishment as the court may award, be for ever disabled to take, hold, or exercise any office in the same corporation.

2 & 3 W. IV. c. 80.—An Act to authorize the identifying of Lands and other Possessions of certain Ecclesiastical and Collegiate Corporations. [3d August 1832.]

WHEREAS the archbishops and bishops of the several dioceses, and the deans, and deans and chapters, archdeacons, prebendaries, and canons, and other dignitaries and officers of the several cathedral and collegiate churches and chapels, and the masters or other heads, and fellows and scholars or other societies of the several colleges and halls in the Universities of Oxford and Cambridge, and of the colleges of Winchester and Eton, are proprietors of divers manors, messuages, lands, tenements, tithes, and hereditaments, and in many cases the boundaries or quantities and the identity of lands within such manors, and of such messuages, lands, tenements, and hereditaments, and of lands subject to any such tithes, or some part or parts thereof, are unknown or disputed, and it would be a great benefit, as well to such proprietors respectively, as to their lessees, copyhold or customary tenants, sub-lessees, or under-tenants, their, his, or her heirs, executors, administrators, or assigns, if the said manors, messuages, lands, tenements, tithes, and hereditaments were identified, and the boundaries and quantities thereof ascertained and finally settled: Be it enacted, &c. that Archbishops,

bishops, deans and chapters, &c. may enter into agreements or deeds of reference with their less to ascertain and settle unknown or disputed boundaries or quantities of manors, &c. leased.

No. III. 2 & 3 W. 4. c. 80.

Referees to make surveys, maps, and admeasurements to summon and examine witnesses on oath; to call for all deeds, &c.;

to make awards, with maps thereto, on parchment or vellum.

Awards and before parties, and their approbation to be written.

Certain consents required to render valid proceedings under this act.

Power to infants, married women, lunatics, &c. to enter into reference.

from and after the passing of this act it shall and may be lawful to and for any archbishop, bishop, dean, dean and chapter, or other corporation aggregate or sole herein-before mentioned, to enter into an agreement of reference or deed of submission with his or their lessee or lessees, copyhold or customary tenant or tenants, sub-lessee or sub-lessees, under-tenant or under-tenants, his, her, or their heirs, executors, administrators, or assigns, or with the owner or owners of any other hereditaments adjoining to or intermixed with the said manors, messuages, lands, tenements, tithes, or hereditaments, whereby it shall be agreed that any unknown or disputed boundaries or quantities of such manors, messuages, lands, tenements, tithes, or hereditaments, or any part thereof, shall be referred to the adjudication of such person or persons as may be agreed upon and named by the said archbishop, bishop, dean, dean and chapter, or other corporation aggregate or sole, and by his or their lessee or lessees, copyhold or customary tenant or tenants, sublessee or sub-lessees, under-tenant or under-tenants, his, her, or their heirs, executors, administrators, or assigns, or by such owner or owners of any other hereditaments situate as aforesaid; and that such referee or referees shall be fully authorized to make or cause to be made surveys, maps, and admeasurements of the said manors, messuages, lands, tenements, tithes, and hereditaments, or any part thereof, and to summon any persons as witnesses, and examine them on oath (which oath he or they are hereby authorized to administer) touching or concerning any of the matters or things so referred as aforesaid, or in any way relating thereto; and also to call for the production of all surveys, maps, deeds, books, papers, and writings in the custody or power of any of the parties to the said reference, or of any other person or persons, of or concerning the matters in question; and the said referee or referees, having well and sufficiently investigated and considered the same, and all matters to him or them referred, shall and may make his or their award or awards in writing, under his or their hand and seal or hands and seals, with a map or maps drawn thereupon or thereunto annexed, and which said award or awards and map or maps shall be upon parchment or vellum, and shall award and determine, identify, delineate, and describe the boundaries, quantities, particulars, and situations of the said manors, messuages, lands, tenements, tithes, and hereditaments so referred to him or them as aforesaid; and the said award or awards and map or maps shall be maps to be laid laid before all the parties to any such agreement of reference or deed of submission, including the party or parties whose consent is required by this act, whose approbation thereof shall be written upon the said award or awards, and shall be signed and sealed by them, and thereupon the said award or awards, and map or maps shall be for ever afterwards binding upon all parties, and final and conclusive as to all matters therein contained or thereby referred to.

> II. Provided always, that in every case in which any of the powers herein-before contained shall be exercised by any bishop, dean, archdeacon, prebendary, or other ecclesiastical corporation sole, the deed of submission or agreement of reference, and also the approbation of the award, shall, in the case of a bishop, be executed by the archbishop of the province testifying his consent thereto; or in case of a dean, the same shall be executed by the dean and chapter testifying their consent thereto; or in the case of an archdeacon, prebendary, or other ecclesiastical corporation sole, the same shall be executed by the archbishop or

bishop of the diocese testifying his consent thereto.

III. That from and after the passing of this act it shall and may be lawful to and for the said lessee or lessees, copyhold or customary tenant or tenants, sub-lessee or sub-lessees, under-tenant or undertenants, and such other owner or owners as herein-before named, his, her, or their heirs, executors, administrators, or assigns, who at the time of making any reference authorized by this act shall be tenant or tenants in fee tail, general or special, or for life or lives, and for the guardians, husbands, committees, or attornies of or acting for any such lessee or lessees, copyhold or customary tenant or tenants, sub-lessee or sub-lessees, under-tenant or under-tenants, and such other owner or owners as herein-before named, his, her, or their heirs, executors, administrators, or assigns, who at the time of making any such reference shall be respectively an infant or infants, feme covert or femes covert, or of unsound mind, or beyond the seas, or under any other legal disability, or otherwise disabled to act for themselves, himself, or herself, to sign, seal, and deliver any agreement of reference or deed of submission or approbation of any award or awards and map or maps authorized by this act to be made, as fully and effectually to all intents and purposes as if such issee or lessees, copyhold or customary tenant or tenants, sub-lessee or sab-lessees, under-tenant or under tenants, and such other owner or owners as herein-before named, his, her, or their heirs, executors, administrators, or assigns, had been tenant or tenants in fee simple, and of full age, sole, of sound mind, or within the realm of England, and not under any other legal disability.

No. III. 2 & 3 W. 4, **c**. 80.

IV. That immediately after the execution by the parties of the instru- Agreements or ment shewing their approbation of any award to be made by virtue of this deeds of referact, the agreement of reference or deed of submission, and also the ence, awards award or awards and map or maps, authorized to be made by this act, and maps, to and a copy of the minutes of evidence whereupon the same is made, be deposited in thall be deposited, in the case of any reference by any archbishop or archbishop, in the office of their own registrar, and in case of any reference archbishop, bishop, in the office of their own registrar; and in case of any reference bishop, &c. by any dean, dean and chapter, archdeacon, prebendary, canon, and other dignitary and officer of a cathedral or collegiate church or chapel, in the office of the registrar of the dean and chapter thereof; and in case of any reference by any masters or other heads, or by any fellows and scholars, or other societies herein-before named, in the office of the steward or other proper officer of their said colleges and halls; and every Documents to such registrar, steward, or other officer, or some person or persons on be produced his behalf, shall produce the documents and papers so deposited with for inspection. him, or any of them, at all proper and usual hours of business, to every person interested in the subject matter of such award, or to his or her agent duly authorized, who shall make application to inspect the same or any of them, and shall furnish a copy or copies of the same or any of them to every such person or agent who shall make application for such copy or copies; and every such registrar, steward, or other officer shall Registrar's m every case be entitled to the sum of five shillings and no more for fees. receiving and preserving the agreement of reference or deed of submission, award or awards, map or maps, and copy of the minutes of evidence as aforesaid; and the sum of one shilling and no more for every production of the same or any of them to be inspected; and the sum of sixpence and no more for every folio containing seventy-two words of every copy; and the sum of ten shillings and no more for every copy of a map so made as aforesaid.

V. That the expences attending every reference which shall be made Expences of under the authority of this act, and all the proceedings hereby required reference how relating to the same, shall be paid and borne by the parties thereto in to be paid. such manner, shares, and proportions as they shall agree; and in case the said parties shall not make any agreement relating to such expences, then all such expences, or so much thereof as shall not be provided for by such agreement, shall be paid and borne by the said parties in equal moieties.

VI. Provided also, That this act shall extend only to that part of the Act limited to United Kingdom called England and Wales.

England and Wales.

No. IV. 3 & 4 W. 4, c. 31.

Elections of officers of corporations and other public companies now required to be held on a Sunday shall Saturday preceding or the Monday following.

If election does not take place on the Saturday the person holding the office to continue until the so to do Monday.

Elections not made on such Saturday or Monday shall be taken to be within the provisions of 11 G. 1, c. 4.

[No. IV.] 3 & 4 W. IV. c. 31.—An Act to enable the Election of Officers of Corporations and other Public Companies now required to be held on the Lord's Day to be held on the Saturday next preceding, or on the Mon-[24th July 1833.] day next ensuing.

WHEREAS the profanation of the Lord's Day is greatly increased by reason of certain meetings which are usually or occasionally held thereon: and whereas it is the duty of the legislature to remove as much as possible, impediments to the due observance of the Lord's Day; be it therefore enacted, &c., That every meeting or adjourned meeting of any vestry or corporation, whether ecclesiastical or civil, or of any public company, for the nomination, election, appointment, swearing in, or admission of any officer or officers, or for the transaction of any other secular affair of such vestry, corporation, or company, and every other meeting of a public and secular nature, which, according to any act of parliament, or according to any charter, grant, constitution, deed, testament, law, prescription, or usage whatsoever, is be held on the or shall be required to be held on any Lord's Day, or on any day which shall happen to be on a Lord's Day, shall be held on the Saturday next preceding, or on the Monday next ensuing, at the like hour, with like form and effect, as if the same had been held on such Lord's Day; and every matter transacted at any such meeting or adjourned meeting held upon any Lord's Day, shall be absolutely void and of none effect, to all intents and purposes whatsoever: Provided always, that when no such nomination, election, appointment, swearing in, or admission shall have taken place on such Saturday, every person whose term of office would, according to any such act, charter, grant, constitution, deed, testament, law, prescription, or usage, have expired on any such Lord's Day, shall continue in office, and exercise and enjoy all the powers and privileges annexed or relating to such office, until and on such Monday next ensuing, in the same manner as if such Monday had been the customary day of nomination, election, appointment, swearing in, or admission.

II. That whenever the nomination, election, appointment, swearing in, or admission of any such officer or officers as before mentioned, shall not take place on such Saturday or Monday, or shall become void, the case shall be and is hereby declared to be within the provisions of an act made and passed in the eleventh year of his late Majesty King George the first, intituled An Act for preventing the Inconveniences arising for Want of Elections of Mayors or other Chief Magistrates of Boroughs or Corporations being made upon the Days appointed by Charter or Usage for that Purpose, and directing in what Manner such Elections shall be afterwards made as fully and effectually as if such officer or

officers had been expressly named in the said act.

[No. V.] 5 & 6 W. 4, c. 76.—An Act to provide for the Regulation of Municipal Corporations in England and [9th September 1835.]

WHEREAS divers bodies corporate at sundry times have been constituted within the cities, towns, and boroughs of England and Wales, to the intent that the same might for ever be and remain well and quietly governed; and it is expedient that the charters by which the said bodies corporate are constituted should be altered in the manner herein-after mentioned; be it therefore enacted, &c., That so much of all laws, statutes, and usages, and so much of all royal and other charters, grants, and letters patent now in force relating to the several boroughs named in the schedules (A.) and (B.) to this Act annexed, or

Repeal of all acts, charters, and customs inconsistent with this act.

to the inhabitants thereof, or to the several bodies or reputed bodies corporate named in the said schedules, or any of them, as are inconsis- 5 & 6 W. 4, tent with or contrary to the provisions of this act, shall be and the same

are hereby repealed and annulled.

II. And whereas in divers cities, towns, and boroughs the common Reservation of and public stock of such cities, towns, and boroughs, and the all rights of rents and profits thereof, have been held and applied for the particular property and benefit of the citizens, freemen, and burgesses of the said cities, towns, beneficial exand boroughs respectively, or of certain of them, or of the widows or emptions to hindred of them, or certain of them, and have not been applied to pub- freemen, their be purposes; be it therefore enacted, That every person who now is wives and a hereafter may be an inhabitant of any borough, and also every per-children. who has been admitted or who might hereafter have been admitted a freeman or burgess of any borough if this act had not been passed, or who now is, or hereafter may be the wife or widow or son or daughter of any freeman or burgess, or who may have espoused or may hereafter espouse the daughter or widow of any freeman or burgess, or who has been or may hereafter be bound an apprentice, shall have and enjoy and be entitled to acquire and enjoy the same share and benefit of the lands, tenements, and hereditaments, and of the rents and profits thereof, and of the common lands and public stock of any borough or body corporate, and of any lands tenements and hereditaments, and any sum or sums of money, chattels, securities for money, or other personal estate, of which any person or any body corporate may be seised or possessed in whole or in part for any charitable uses or trusts, as fully and effectually, and for such time and in such manner, as he or she by any statute, charter, bye-law, or custom in force at the time of passing this act might or could have had, acquired, or enjoyed in case this act had not been passed: Provided always, that the total amount to be divided amongst the persons whose rights are herein reserved in this behalf shall not exceed the surplus which shall remain after payment of the interest of all lawful debts chargeable upon the real or personal estate out of which the sums so to be divided have arisen, together with the salaries of municipal officers, and all other lawful expences which, on the fifth day of June, were defrayed out of or chargeable upon the same: Provided also, that nothing herein-before contained shall be construed to apply to any claim, right, or title of any burgesses or freemen, or of any person, to any discharge or exemption from any tolls or dues levied wholly or in part by or to the use or benefit of any borough or body corporate; and that after the passing of this act no person shall have or be entitled to claim thenceforward any discharge or exemption from any tolls or dues lawfully levied in whole or in part by or to the use of any body corporate, except as herein-after is excepted: Provided nevertheless, that every person who, on the fifth day of June in this present year, was an inhabitant, or was or was entitled to be admitted a freeman or burgess of any borough, or who on the said fifth day of June was the wife or widow, son or daughter of any freeman or burgess of any borough, or who on the said fifth day of June was bound an apprentice, shall be entitled to have or acquire and enjoy the same discharge or exemption from any tolls or dues lawfully levied in whole or in part by or to the use of any borough or body corporate as fully and for such time and in such sort as he or she, by any statute, charter, byc-law, or custom in force on the said fifth day of June, might or would have had, acquired, and enjoyed the same if this act had not been passed, and no further or otherwise: Provided also, that where, hy any statute, charter, bye-law, or custom in force within any borough at the time of passing this act, any person whose rights in this behalf are herein reserved would have been liable in case this act had not been passed to pay any fine, fee, or sum of money to any body corporate, or to any member, officer, or servant of any body corporate, in consideration of his freedom, or of his or her title to such rights as are herein reserved, no such person shall be entitled to have or claim any share or benefit in respect of

No. V.

the rights herein reserved as aforesaid, until he or she shall have pa 5 & 6 W. 4, the full amount of such fine, fee, or sum of money to the treasurer such borough, appointed under the provisions of this act, on account the borough fund herein-after mentioned: Provided also, that nothin in this act contained shall be construed to entitle any person to as share or benefit of the rights herein reserved, who shall not have fix fulfilled every condition which, if this act had not passed, would have been a condition precedent to his or her being entitled to the benefit such rights, so far as the same is capable of being fulfilled according the provisions of this act, or to strengthen, confirm, or affect any clair right, or title of any burgesses or freemen of any borough or body ca porate, or of any person, to the benefit of any such rights as are hereis before reserved, but the same in every case may be brought in question impeached, and set aside in like manner as if this act had not bec passed.

No freedom to

III. Provided always, That from and after the passing of this act, a be acquired by person shall be elected, made, or admitted a burgess or freeman of ar

giftor purchase borough by gift or purchase.

the parliamentary franchise to free-

men.

Freemen's roll town clerk.

IV. And whereas the right of voting in the election of members serve in parliament was by an act passed in the second year of the reig 2. W. 4, c. 45. of his present Majesty, intituled An Act to amend the Representation the People of England and Wales, preserved to all persons who the were or thereafter might become freemen or burgesses of any city of borough, subject to the conditions and provisions in that act contained Reservation of be it therefore enacted, That every person who if this act had not bee passed would have enjoyed, as a burgess or freeman, or might hereafte have acquired, in respect of birth or servitude, as a burgess or freeman the right of voting in the election of a member or members to serve i parliament for any city or borough, shall be entitled to enjoy or acquir such right of voting as fully as if this act had not been passed; and the town clerk of every city or borough returning a member or members 1 parliament shall at all times hereafter do and perform all things appear taining to the due registration of the freemen or burgesses of such cit or borough according to the provisions of the said act.

V. That the town clerk of every borough shall on or before the first to be made out day of December next make out a list, to be called "The Freemen and kept by the Roll," of all persons who at the time of the passing of this act shall have been admitted as burgesses or freemen of such borough; and the whenever any person shall hereafter become entitled to be admitted burgess or freeman for the purposes aforesaid of such borough in repect of birth, servitude, or marriage, and shall claim to be admitte accordingly, the mayor of such borough shall examine into such clain and upon such claim being established every such person shall there upon be admitted and enrolled by the town clerk of such borough upo the freemen's roll; and the town clerk shall keep a true copy of suc roll, to be perused by any person without payment of any fee, at a reasonable times, and shall deliver a copy thereof to any person requiring the same, on payment of a reasonable price for such copy,

Corporations to burgesses.

VI. That after the first election of councillors under this act in an be styled mayor, borough the body or reputed body corporate named in the said schedule aldermen, and in connexion with such borough shall take and bear the name of th mayor, aldermen, and burgesses of such borough, and by that nam shall have perpetual succession, and shall be capable in law, by the counc herein-after mentioned of such borough, to do and suffer all acts which now lawfully they and their successors respectively may do and suffe by any name or title of incorporation; and the mayor of each of th said boroughs shall be capable in law to do and suffer all acts which th chief officer of such borough may now lawfully do and suffer, so far a the same respectively are not altered or annulled by the provisions (this act.

VII. That after the passing of this act the metes and bounds of th Boundaries. of certain boroughs to be those settled by 2 & 3 W. 4, c. 64.

everal boroughs named in the first section of the said Schedules (A.) and (B.) for the purposes of this act shall be the same as the limits 5 & 6 W. 4, hereof respectively settled and described in an act passed in the second and third year of the reign of his present Majesty, intituled An Act to the and describe the Divisions of Counties and the Limits of Cities and broughs in England and Wales, so far as respects the Election of Members serve in Parliament; and the metes and bounds of the several boroughs Boundaries of med in the second section of the said schedules for the purposes other boroughs Ithis act shall be and remain as the same are now taken to be until to remain until wh time as parliament shall otherwise direct: Provided nevertheless, altered by parat notwithstanding any thing herein contained no parish or place, or liament. en of any parish or place, which is detached from the main part of th borough or county of a city or town corporate, shall after the using of this act be included within any such borough or county; and, bject to this provision, the metes and bounds of every such borough ed county shall include the whole of the liberties of such borough or bunty by land and by water as the same now are or are taken to be.

VIII. That every place and precinct which shall be included within Every place metes and bounds of any borough as herein-before provided, and none included within ther, shall be part of such borough, and in those boroughs which are the bounds of a punties of themselves shall be part of such county and of none other; borough to be and in every case in which the metes and bounds of any borough or county part of such the provisions of this act shall not include any place or precinct borough.

Parts cut off mich before the passing of this act was part of such borough or county, from the boach place or precinct shall thenceforward be taken to be part of the rough to be debenty wherein such place or precinct is situated, or with which clared part of has the longest common boundary: Provided nevertheless, that adjoining any such place or precinct shall have been liable before the passing county. this act to contribute to any rate made for the purpose of satising any lawful debt to which the rate-payers of such borough or county were liable to contribute before the passing of this act, and in case any difference shall arise concerning the proportion of such debt is ought therefore to be paid and contributed in respect of such place or precinct, it shall be lawful for the senior justice of assize for the county of which such place or precinct shall thenceforward be taken . to be part, on his circuit, on the application of the council of such brough, or of the chairman of a public meeting of the rate-payers of place or precinct, to appoint, by writing under his hand, a arrister not having any interest in the question to arbitrate between parties, and by his award, under his hand and seal to assess the proportion, if any, of such debt as ought therefore to be paid and convibuted in respect of such place or precinct; and such arbitrator shall assess the costs of the arbitration, and shall direct by whom and in what proportion, and out of what fund, the same shall be paid; and rate as aforesaid shall continue to be levied by warrant of the counof such borough, and paid by such place or precinct, as if this act had not passed, until such proportion shall have been fully paid and to the treasurer of the borough, and no longer: Provided bevertheless, that every county gaol, house of correction, or lunatic wilder, court of justice, or judge's lodging, which at the time of the passing of this act is taken to be for any purpose within any county still, for all such purposes, be taken to be within such county, any thing herein contained to the contrary notwithstanding.

1X. That every male person of full age who on the last day of August Occupiers of any year shall have occupied any house, warehouse, counting-house, houses and of shop within any borough during that year and the whole of each of shops rated for the two preceding years, and also during the time of such occupation 3 years to the have been an inhabitant householder within the said borough, or relief f the within seven miles of the said borough, shall, if duly enrolled in that to be burgesses car according to the provisions herein-after contained, be a burgess of if resident tuch borough and member of the body corporate of the mayor, alder-householders, men, and burgesses of such borough: Provided always, that no such within seven

No. V. c. 76.

person shall be so enrolled in any year, unless he shall have been rate 5 & 6 W. 4, in respect of such premises so occupied by him within the borough t all rates made for the relief of the poor of the parish wherein such pre mises are situated during the time of his occupation as aforesaid, and unless he shall have paid on or before the last day of August as afore said all such rates, including therein all borough rates, if any, directed to be paid under the provisions of this act, as shall have become payable by him in respect of the said premises, except such as shall become payable within six calendar months next before the said last day of August: Provided also, that the premises in respect of the occupation of which any person shall have been so rated need not be the same pre mises or in the same parish, but may be different premises in the Aliens and per- same parish or in different parishes: Provided also, that no person sons who have being an alien shall be so enrolled in any year, and that no person shal received paro- be so enrolled in any year who within twelve calendar months nex chial relief not before the said last day of August shall have received parochial relief or to be enrolled. other alms, or any pension or charitable allowance from any fund in trusted to the charitable trustees of such borough herein-after mention ed: Provided that in every case provided in this act the distance of seven miles shall be computed by the nearest public road or way by land or water.

X. That no medical or surgical assistance given by the charitable trustees of any borough shall be taken to be such charitable allowance as shall disqualify any person from being enrolled a burgess as aforesaid; nor shall any person be so disqualified by reason that any child of such person shall have been admitted and taught within any public or endowed school.

tance or instruction in endowed schools not to be a cause of disqualification. Occupiers may claim to be rated.

Medical assis-

XI. That in every borough it shall be lawful for any person occupy. ing any house, warehouse, counting-house, or shop to claim to be rated to the relief of the poor in respect of such premises, whether the land. lord shall or shall not be liable to be rated to the relief of the poor in respect thereof; and upon such occupier so claiming, and actually paying or tendering the full amount of the last made rate then payable in respect of such premises, the overseers of the parish in which such premises are situate are hereby required to put the name of such occupier upon the rate for the time being; and in case such overseer shall neglect or refuse so to do such occupier shall nevertheless, for the purposes of this act, be deemed to have been rated to the relief of the poor it respect of such premises from the period at which the rate shall have been made in respect of which he shall have so claimed to be rated as aforesaid: Provided always, that where by virtue of any act of parlia ment the landlord shall be liable to the payment of the rate for the relie of the poor in respect of any premises occupied by his tenant, nothing herein contained shall be deemed to vary or discharge the liability of such landlord, but in case the tenant who shall have been rated for such premises in consequence of any such claim as aforesaid shall make default in the payment of the poor's rate payable in respect thereof sucl landlord shall be and remain liable for the payment thereof in the same manner as if he alone had been rated in respect of the premises so occu pied by his tenant.

In case of titles how the occupation is to be reckoned.

XII. That where any house, warehouse, counting-house, or shop it by descent, &c. any borough shall come to any person by descent, marriage, marriage settlement, devise, or promotion to any benefice or office, such person shall be entitled to reckon the occupancy and rating, in respect of th occupancy thereof by the person from or by whom such house, ware house, counting-house, or shop shall have so come to him, as his own occupancy and rating conjointly with the time during which he shall have since occupied and been rated for the same, and shall be entitled to be enrolled a burgess in respect of such successive occupancy and rating, provided he shall be otherwise qualified as herein provided.

XIII. That after the passing of this act no person shall be enrolled No new Burgesses to be admitted who are not qualified under this act.

largess of any borough, for the purpose of enjoying the rights conferred for the first time by this act, in respect of any title other than by occu- 5 & 6 W. 4, pancy and payment of rates within such borough, according to the

maning and provisions of this act.

XIV. And whereas in divers cities, towns, and boroughs a certain Exclusive tastom hath prevailed, and certain bye-laws have been made, that no rights of trading preon, not being free of a city, town, or borough, or of certain guilds, abolished. mysteries, or trading companies within the same, or some or one of them, shall keep any shop or place for putting to show or sale any or artain wares or merchandize by way of retail or otherwise, or use any recrtain trades, occupations, mysteries, or handicrafts for hire, gain, reale within the same; be it enacted, That, notwithstanding any such ratiom or bye-law, every person in any borough may keep any shop for in sale of all lawful wares and merchandizes by wholesale or retail, and we every lawful trade, occupation, mystery, and handicraft, for hire,

am, sale, or otherwise, within any borough.

XV. That on the fifth day of September(1) in every year the overseers Overseers to of the poor of every parish wholly or in part within any borough shall make lists of make out an alphabetical list, to be called "The Burgess List," accord- all persons my to the form number 1, in the schedule (D.) to this act annexed, of entitled to be persons who shall be entitled to be enrolled in the Burgess Roll of burgesses in that year, according to the provisions of this act, in respect of property their respective within such parish; and the overseers shall sign such burgess lists, and parishes. hall deliver the same to the town clerk of the borough on the said fifth day of September in every year, and shall keep a true copy of such ists, to be perused by any person, without payment of any fee, at all. resonable hours between the fifth (3) and fifteenth days of September 1 (very year; and the town clerk shall forthwith cause copies to be Ented of all overseers' lists delivered to him, and shall deliver a copy of ચાલાત lists to any person requiring the same, on payment of a reamable price for each copy, and shall cause a copy of all such lists to be ited on or near the outer door of the town hall, or in some public and inspicuous situation within the borough, on every day during the and next preceding the fifteenth day of September in every year.

XVI. Provided always, That in any borough in which there shall be As to boroughs town clerk, or in which the town clerk shall be dead or incapable of in which there ing, all matters by this act required to be done by and with regard to is no town town clerk shall be done by and with regard to the person executing clerk. thes in such borough similar to those of town clerk, and if there be no wh person, or if such person shall be dead or incapable of acting, then in and with regard to such fit person as the mayor of such borough appoint in that behalf: Provided always, that every precinct or As to precincts, whether extra-parochial or otherwise, which shall have no over- &c. where rere, shall, for the purpose of making out such lists as aforesaid, he there are no kemed within the parish adjoining thereto, such parish being wholly overseers. in part situate within the same borough as such precinct or place, and if such precinct or place shall adjoin two or more parishes so situate is aforesaid it shall be deemed to be within the least populous of such Parishes according to the last census for the time being; and the over-

merted in the lists of such precinct or place if such precinct or place had had overseers or been rated to the maintenance of the poor.

IVII. That every person whose name shall have been omitted in any Persons inch burgess list and who shall claim to have his name inserted therein, omitted from hall, on or before the fifteenth day of September in every year, give the overseers'

ters of the poor of every such parish shall insert in the list for their ransh the names of all persons who would have been entitled to be

No. V. c. 76.

lists to give notice to the town clerk.

⁽¹⁾ By an order in council issued under the authority given to his Majesty by s. 140, this day is the present year (1835) altered to the 7th of November.

⁽²⁾ This year between the 7th and the 17th of November. 3/ See the above note.

No. V.
5 & 6 W. 4,
c. 76.

Notices as to
persons not
entitled to be
retained in the
lists.

Lists of claimants and of persons objected to, to be published, &c.

Mayor and assessors to revise lists, and, upon due proof, to insert and expunge names.

notice thereof to the town clerk in writing, according to the form num ber 2, in the said Schedule (D.), or to the like effect; and every person whose name shall have been inserted in any burgess list for any borough may object to any other person as not being entitled to have his name retained in the burgess list for the same borough, and every person so objecting shall, on or before the fifteenth day of September in every year, give to the town clerk of such borough, and also give to the person objected to, or leave at the premises for which he shall appear to be rated in the burgess list, notice thereof in writing according to the form number 3, in the said Schedule (D.) or to the like effect; and every town clerk shall include the names of all persons so claiming to be inserted on the burgess list in a list according to the form number 8, in the said Schedule (D.), and shall include the names of all persons so objected to as not entitled to be retained on the burgess list in a list according to the form number 5, in the said Schedule (D.), and shall cause copies of such several lists to be fixed on or near the outer door of the town hall or in some public and conspicuous situation within such borough during the eight days next preceding the first day of October in every year; and the town clerk shall likewise keep a copy of the names of all persons so claiming as aforesaid, and also a copy of the names of all persons so objected to as aforesaid, to be perused by any person, without payment of any fee, at all reasonable hours during the eight days, Sunday excepted, next preceding the first day of October in every year, and shall deliver a copy of each of such lists to any person requiring the same, on payment of a sum not exceeding one shilling for each copy.

XVIII. That the mayor and the two assessors herein-after mentioned, to be chosen in every year by the burgesses of every borough, shall hold an open court within such borough, for the purpose of revising the said burgess lists at some time between the first day(1) of October inclusive and the fifteenth day of October inclusive in the year one thousand eight hundred and thirty-six, and every succeeding year, having first given three clear days' notice of the holding of such court, to be fixed on or near the outer door of the town hall or in some public and conspicuous situation within the borough; and the town clerk of every such borough shall, at the opening of the court, produce the said lists, and a copy of the lists of the persons claiming and of the persons objected to, so made out as aforesaid; and the overseers, vestry clerks, and collectors of poor's rates of every parish wholly or in part within every such borough shall attend the court, and shall answer upon oath all such questions as the court may put to them or any of them touching any matter necessary for revising the burgess lists; and the mayor shall insert in such lists the name of every person who shall be proved, to the satisfaction of the court, to be entitled to be inserted therein, according to the provisions of this act, and shall retain on the said list the names of all persons to whom no objection shall have been duly made, and shall also retain on the said lists the name of every person who shall have been objected to by any person, unless the party so objecting shall appear by himself or by some one on his behalf in support of such objection; and where the name of any person inserted in any one of the said lists shall have been duly objected to, and the person objecting shall appear by himself or by some one on his behalf in support of such objection, the court shall require proof of the qualification of the person so objected to; and in case the qualification of such person shall not be proved to the satisfaction of the court the mayor shall expunge the name of every such person from the said lists, and he shall also expunge from the said lists the name of every person who shall be proved to the court to be dead, and shall correct any mistake or supply any omission which shall be proved to the court to have been made in any of the said lists in respect of the name or place of abode of any person who shall be included in

⁽¹⁾ In this year (1835) the revision is to be between the 1st and 15th of December.

my such list, or in respect of the local description of his property: frovided always, that no person's name shall be inserted by the mayor 5 & 6 W. 4, many such list, or shall be expunged therefrom, except in the case of inth, unless notice shall have been given as is herein-before required anch of the said cases.

No. V. c. 76.

113. That every mayor holding any court under this act for the Power to mision of the said lists shall have power to adjourn the same from mayor, &c. of to time, so that no such adjourned court shall be held after the adjourning, of menth day of October in any year, and shall have power to require administering er overseer, or person having the custody of any book containing any oaths, &c. wade for the relief of the poor during that or any preceding year, any parish wholly or in part within the borough, to produce the same ad allow the same to be inspected at any court to be held for revision the burgess lists, and shall have power to administer an oath to the real clerk and to the overseers, and to all persons claiming to be exted in or making objection to the omission or insertion of any in any of the said lists, and to all persons objected to in any of ists, and to all persons claiming to have any mistake in any of th lists corrected, and to all witnesses who may be tendered or mained on either side; and the mayor and assessors shall, upon the Mayor shall aring in open court, determine upon the validity of such claims and sign the lists in ections, and the mayor shall, in open court, write his initials against open court. k names respectively struck out or inserted, and against any part of k said lists in which any mistakes shall have been corrected, and sign his name to every page of the several lists so settled.

IX. That the senior judge, or in case of his absence from the king-Barristers to the next judge, in the commission of assize for the summer circuit be appointed this year for every county, shall, before the last day of September in to revise lists in year, appoint so many barristers as the said judge shall deem ne- the first year. to revise the lists of burgesses of every borough in or adjoining inch county; and the town and county of the town of Kingston-In-Hull shall for this purpose be considered as next adjoining to the anty of York, and the town of Berwick-upon-Tweed and town and anty of the town of Newcastle-upon-Tyne as next adjoining to the noty of Northumberland, and the city and county of the city of as next adjoining to the county of Somerset; and the said judge have power to appoint one or more barristers to revise the lists for same borough, and the same barrister to revise the lists of more one borough; and the barrister so appointed to any borough shall that purpose, during this year, be in the place and stead of the ayor and assessors of such borough, and shall revise the lists of rigesses in this year in the manner herein-before enacted concerning mayor and assessors in every succeeding year; and if it shall be ade to appear to the said judge that for any cause such lists cannot be mised within the period directed by this act, it shall be lawful for such de and he is hereby required to appoint one or more barristers to act the place of or in addition to those originally appointed; and every th barrister so subsequently appointed shall have the same power as originally appointed; and every barrister appointed to revise any under this act shall be paid at the rate of five guineas for every day he shall be so employed over and above his travelling and other Pences; and every such barrister, after the termination of his last shall lay or cause to be laid before the lords commissioners of Majesty's treasury for the time being a statement of the number of during which he shall have been so employed in each borough, an account of the travelling and other expences incurred by him in apect of such employment; and the said lords commissioners shall an order for the amount to be paid to such barrister out of the asolidated fund: Provided nevertheless, that as soon as a council be chosen in any borough under the provisions of this act the said commissioners shall make an order on the council of such borough The amount of daily salary herein-before enacted to be paid to such

barrister during the time that he shall have been employed in revisit 5 & 6 W. 4, the lists of such borough; and the council of such borough shall fort with cause the same to be repaid to the said lords commissione out of the borough fund of such borough; and the same, if not pa shall be deemed to be a debt due to his Majesty, and recoverable such.

Affirmation tuted for oath.

XXI. That every person authorized by law to make an affirmation may be substi- instead of taking an oath shall make such affirmation in every case which by this act an oath is required to be taken; and if any person

Revised bokept by the copied into names numbered.

taking any oath required by this act, or making any affirmation inste of taking such oath, shall wilfully swear or affirm falsely, such person shall be deemed guilty of perjury, and shall be punished accordingly. XXII. That the burgess lists so revised and signed as last aforesal rough lists to be shall be delivered by the mayor to the town clerk of such borough, w shall keep the same, and shall cause the said burgess lists to be fair

Such book to be the roll of burgesses entitled to vote.

town clerk, and and truly copied into one general alphabetical list in a book to be him provided for that purpose, with every name therein numbere books, with the beginning the numbers from the first name, and continuing them in regular series to the last name, and shall cause such books to be con pleted on or before the twenty-second day of October (1) in every year and shall deliver such books, together with the lists, at the expiration of his office, to the person succeeding him in such office; and eve such book in which the said burgess lists shall have been copied shall be the burgess roll of the burgesses of such borough entitled to vol after the passing of this act, in the choice of the councillors, assessor and auditors of such borough, as herein-after mentioned, at any election which may take place in such borough between the first day of Nover ber inclusive in the year wherein such burgess roll shall have be No stamp duty made and the first day of November in the succeeding year; Provide that no stamp duty shall be payable in respect of the admission registry, or enrolment of any burgess, according to the provisions

on enrolment.

this act.

Copies of the burgess roll to be printed for sale.

XXIII. That the town clerk of every borough shall cause to written or printed copies of the burgess roll in every year, and sh deliver such copies to all persons applying for the same, on payment a reasonable price for each copy; and the monies arising from the si thereof, and of the overseers' lists, and of the lists of claims and obje tions as aforesaid, shall be paid over to the treasurer of such boroug and shall be applied by him in aid of the borough fund herein-aft mentioned.

Expences of overseers how to be defrayed.

XXIV. That the said council of every borough shall take an accou of the reasonable expences incurred by the overseers of the poor carrying into effect the several provisions of this act so far as relates the said lists, and shall order the treasurer of the said borough to p the same out of the borough fund of the said borough.

Mayor, aldercillors to be borough, who together shall constitute the council of the borough.

XXV. That in every borough shall be elected, at the time and in t men, and coun- manner herein-after mentioned, one fit person, who shall be and be call "the mayor" of such borough; and a certain number of fit person chosen in every who shall be and be called "aldermen" of such borough; and a certs number of other fit persons, who shall be and be called "the councillor of such borough; and such mayor, aldermen, and councillors for the til being shall be and be called "the council" of such borough; and t number of persons so to be elected councillors of such borough shall the number of persons in that behalf mentioned in conjunction with t name of such borough in the Schedules (A.) and (B.) to this act a nexed; and the number of persons so to be elected aldermen shall one third of the number of persons so to be elected councillors; and the ninth day of November (2) in this present year, the councillors fi

⁽¹⁾ In 1835 the 22nd of December.

⁽²⁾ In 1835 on the 31st of December.

be elected under the provisions of this act, and on the ninth day of stember in the year one thousand eight hundred and thirty-eight, and every third succeeding year, the council for the time being of every rough, shall elect from the councillors, or from the persons qualified be councillors, the aldermen of such borough, or so many as shall be sted to supply the places of those who shall then go out of office acring to the provisions herein-after contained; and that upon the day of November in the year one thousand eight hundred and my-eight, and in every third succeeding year, one half of the number pointed as aforesaid to be the whole number of the aldermen of every rough shall go out of office; and the councillors immediately after the relection of aldermen shall appoint who shall be the aldermen who all go out of office in the year one thousand eight hundred and thirtypt; and thereafter those who shall go out of office shall always be who have been aldermen for the longest time without re-election: wided always, that any alderman so going out of office may be forthre-elected, if then qualified as herein provided; provided also, that raldermen so going out of office shall not be entitled to vote in the Mion of a new alderman.

No. V. 5 & 6 W. 4, **c.** 76.

WVI. That the mayor and aldermen shall, during their respective Mayor and tres, continue to be members of the courcil of the borough, notwith- aldermen to ring any thing herein-after contained as to councillors going out of continue to be members of the council during their offices. leat the end of three years.

IXVII. That whenever any extraordinary vacancy shall take place Future vacanhe office of alderman of any borough, the council of such borough cies in the within ten days after such vacancy shall occur, on a day to be office of alderby the mayor for such purpose, elect some other fit person to fill men how to be a vacancy, either from the councillors or from the persons qualified * councillors; and in case any councillor shall be elected to fill the ke of alderman, then the vacancy which will thereby be occasioned is council shall be filled up at the time and in the manner herein-🗗 directed; and every person so elected an alderman to fill an extramary vacancy shall hold such office until the time when the person the room of whom he was chosen would regularly have gone out of ke, and he shall then go out of office, but may be re-elected if then used as herein provided.

IXVIII. That no person being in holy orders, or being the regular Who are not uster of any dissenting congregation, shall be qualified to be elected qualified to be be a councillor of any such borough or an alderman of any such chosen mayor. or councillor. bugh, nor shall any person be qualified to be elected or to be a counor an alderman of any such borough who shall not be entitled to a the burgess list of such borough, nor unless he shall be seised or bessed of real or personal estate or both to the following amount, is to say, in all boroughs directed by this act to be divided into For more wards to the amount of one thousand pounds, or be rated the relief of the poor of such borough upon the annual value of not than thirty pounds, and in all boroughs directed to be divided bless than four wards, or which shall not be divided into wards, to amount of five hundred pounds, or be rated to the relief of the poor such borough upon the annual value of not less than fifteen pounds, furing such time as he shall hold any office or place of profit, other that of mayor in the gift or disposal of the council of such borough, during such time as he shall have directly or indirectly, by himfor his partner, any share or interest in any contract or employat with, by, or on behalf of such council; provided that no person ill be disqualified from being a councillor or alderman of any borough doresaid by reason of his being a proprietor or shareholder of any spany which shall contract with the council of such borough for rung or supplying with water or insuring against fire any part of is borough.

XIX. That every burgess of any borough who shall be enrolled on vote in the burgess roll for the time being of such borough shall be entitled to election for

Who shall

Councillors to be chosen on every year.

vote in the election of councillors and of the auditors and assess 5 & 6 W. 4, herein-after mentioned for such borough, and no person who shall be enrolled in such burgess roll for the time being shall have any v or be entitled to vote in any such election.

XXX. That upon the first day of November (1) in every year burgesses so enrolled in every borough shall openly assemble and e the 1st Nov. in from the persons qualified to be councillors the councillors of s borough, or such part of them as shall be needed to supply the place those who shall then go out of office: Provided nevertheless, whenever any day by this act appointed for any purpose shall in year happen on a Sunday, in every such case the business so appoin

to be done shall take place on the Monday following.

One third part of the council to go out of office annually.

XXXI. That upon the first day of November, one thousand ei hundred and thirty six, and in every succeeding year, one third I of the number appointed as aforesaid to be the whole number of councillors of every borough shall go out of office; and in the said y one thousand eight hundred and thirty-six those who shall go out office shall be the councillors who were elected under the provisi of this act by the smallest numbers of votes in this present year, in the next year, one thousand eight hundred and thirty-seven, th who shall so go out of office shall be the councillors who were elec under the provisions of this act by the next smallest numbers of ve in this present year, the majority of the whole council always de mining, when the votes for any such persons shall have been equ who shall be the persons so to go out of office; and thereafter th who shall so go out of office shall always be the councillors who h been for the longest time in office without re-election; Provide always, that any councillor so going out of office shall be capable being forthwith re-elected, if then qualified, as herein provided.

Elections to be held before mayor and assessors.

Mode of voting.

XXXII. That every election of councillors within any borough cording to the provisions of this act shall be held before the ma and assessors for the time being of such borough, except as herein excepted; and the voting at every such election shall commence nine o'clock in the forenoon, and shall finally close at four o'clock the afternoon of the same day, and shall be conducted in man following; that is to say, every burgess entitled to vote in the elect of councillors may vote for any number of persons not exceeding number of councillors then to be chosen, by delivering to the me and assessors or other presiding officer as herein-after mentione voting paper, containing the christian names and surnames of persons for whom he votes, with their respective places of abode descriptions, such paper being previously signed with the name of burgess voting, and with the name of the street, lane, or other p in which the property for which he appears to be rated on the burg roll is situated.

Polling booths to be provided.

XXXIII. That at every election in any borough the mayor, i shall appear to him expedient for taking the poll at such elect may cause booths to be erected, or rooms to be hired and used such booths, for different parts of such borough, which may be situa either in one place or in several places, and shall be so divided allotted into compartments as to the mayor shall seem most conveniand the mayor shall appoint a clerk to take the poll at each com ment, and shall cause to be affixed on the most conspicuous part of of the said booths the names of the parts for which such booth is pectively allotted; and no person shall be admitted to vote at any 8 election except at the booth allotted for the part wherein the ho warehouse, counting-house, or shop occupied by him as described the burgess roll may be; but in case no booth shall happen to be 1 vided for any particular part as aforesaid the votes of the persons vo respect of property situate in any part so omitted may be taken at wof the said booths; and public notice of the situation, division, 5 & 6 W. 4, allotments of the different booths shall be given two days before commencement of the poll by the mayor; and in case the booths il be situated in different places the mayor may appoint a deputy to side at each place: provided also, that no election shall be holden the this act in any borough in any church, chapel, or other place or the worship.

No. V. c. 76.

UXIV. That no inquiry shall be permitted at any election as to the No inquiry of kof any person to vote as a burgess in any borough, except only as ivs; (that is to say,) that the mayor or other presiding officer shall squired by any two burgesses entitled to vote in the same borough, ther he has to any voter at the time of his delivering in his voting paper, and voted before at lasterwards, the following questions, or any of them, and no other: Are you the person whose name is signed as A. B. to the voting tion.

the voter except as to his identity, and whethe same elec-

paper now delivered in by you?

Forms of ques-

LAre you the person whose name appears as A. B. on the burgess tions as to roll now in force for this borough, being registered therein as these points. rated for property described to be situate in

[Here specify the street, &c., as described in the burgess roll.]

Have you already voted at the present election?

1 no person required to answer any of the said questions shall be inited or qualified to vote until he shall have answered the same; if any person shall wilfully make a false answer to any of the quesn aforesaid he shall be deemed guilty of a misdemeanor, and may

ndicted and punished accordingly.

XXV. That the mayor and assessors shall examine the voting Result of elecers so delivered as aforesaid, for the purpose of ascertaining which tion how to be the several persons voted for are elected; and so many of such per-declared. is being equal to the number of persons then to be chosen, as shall the greatest number of votes, shall be deemed to be elected; and rate of an equality in the number of votes for any two or more per-", the mayor and assessors, or any two of them, shall name from begst those persons for whom the number of votes shall be equal so by as shall be necessary to complete the requisite number of persons the chosen; and the mayor shall cause the voting papers to be kept the office of the town clerk during six calendar months at the least * every such election; and the town clerk shall permit any burgess depect the voting papers of any year, on payment of one shilling for Ty search; and the mayor shall publish a list of the names of the sons so elected not later than two of the clock in the afternoon of day next but one following the day of such election, unless such be Sunday, and then on the Monday following.

MXVI. That if the mayor of any borough shall at the time when it An alderman be necessary to execute the powers and duties herein provided to be chosen respect to elections, be dead, absent, or otherwise incapable of to preside at ing, the council of such borough shall forthwith elect one of the election in case ermen to execute all such powers and duties in the place of the of the death or For; provided that in the first election of councillors and of auditors inability of the 1,888essors, as herein-after provided, the mayor alone shall act with mayor. the powers and duties herein-before enacted concerning the mayor

assessors jointly in such elections.

XXVII. That on the first day of March in the year one thousand Election of auht hundred and thirty-six, and in every succeeding year, the bur-ditors and ber of every borough shall elect from the persons qualified to be assessors. incillors by a majority of votes, two burgesses, who shall be and be led auditors of such borough, and two burgesses, who shall be and called assessors of such borough; and every such auditor and lessor shall continue in office until the first day of March in the year lowing his election; and the election of such auditors and assessors pectively shall be in form and manner herein-before provided for the thion of councillors; provided nevertheless, that in every such

Existing mayors and councillors to go out of office on election of councillors under this act.

election of auditors or assessors no burgess shall vote for more th 5 & 6 W. 4, one person to be an auditor or assessor; provided also, that no burg shall be eligible to be or be elected such auditor or assessor as afores who shall be of the council, or the town clerk or treasurer of su borough.

> XXXVIII. That after the declaration of the first election of the co cillors under the provisions of this act in any borough, the may aldermen, and common councilmen, and all other members of common council or governing body of the body corporate named conjunction with such borough in the said Schedules (A.) and (B.), whatever name or style they may be known or called, then in offi shall go out of office, and their whole powers and duties shall cea-Provided nevertheless, that any of the persons so going out of off shall be eligible to be elected and appointed under the provisions this act: Provided also, that such persons as are justices of the pe in any borough at the time of passing this act shall continue to he and exercise all the powers which at the time of passing this act the have as justices of the peace, until the first day of May in the year thousand eight hundred and thirty-six, and no longer: Provided al that in every borough in which, by statute, charter, bye-law, or custo any election is appointed to be holden between the day of the passing this act and the first day of May next, both inclusive, no such electi shall be holden, but every person holding office in any borough on 1 day of the passing of this act shall continue to hold such office, and have all the powers, and be subject to all the duties, and be entitled the same salary and fees of such office, as he would have had and be if elected to such office between the day of the passing of this act a the said first day of May until the time provided by this act for him to out of office; any statute, charter, bye-law, or custom notwithstanding

Where boroughs are to wards, the bounds of the wards to be determined by the barristers appointed to revise the lists.

XXXIX. And whereas it is expedient that certain boroughs of lar population should be divided into wards before any election of cov be divided into cillors for such boroughs should take place; be it therefore enact That every borough in the said Schedule (A.) shall be divided into 1 number of wards mentioned in such schedule in conjunction with name of such borough; and that it shall be lawful for the barrister barristers appointed in pursuance of the provisions herein-before co tained to revise the burgess and councillors lists of any borough in 1 present year, and he or they is and are hereby required within the spa of six weeks next after the passing of this act to determine and set (the extent, limits, and boundary lines of such wards, and what portic of such borough shall be included therein respectively; and the copy the particulars of such division shall be forthwith transmitted to one his Majesty's principal secretaries of state, and, if his Majesty by adv of his privy council shall approve such determination, shall be publish in the London Gazette, and another copy of such particulars shall delivered to the town clerk of such borough, to be by him safely ke among the public documents of such borough; and every such borou shall, after such publication as aforesaid, be deemed to be divided in such wards as shall be so determined and set out as aforesaid, and su division shall continue and be in force until the same shall be altered authority of parliament: Provided always, that if his Majesty, by advi of his privy council, shall not approve such determination, such pub cation as aforesaid shall nevertheless be made, and such division be force for the purpose of any election under the provisions of this a and until such time as his Majesty shall by advice of his privy count upon further information and report from such barristers, definitive approve the division of such borough into wards in manner here before mentioned.

XL. That the said barrister or barristers shall, after the division Number of councillors for the borough into such number of wards as is directed by this act, a portion among the several wards of such borough the number of cou each ward to be assigned by cillors mentioned in conjunction with the name of such borough in t the barristers according to certain rules.

and Schedule (A.); and in assigning the number of councillors to each and the said barrister or barristers shall, as far as in his or their judg- 5 & 6 W. 4, Ent he or they may deem it to be practicable, have regard as well to le number of persons rated to the relief of the poor in such ward as to k aggregate amount of the sums at which all the said persons shall be rated: Provided always, that the number of councillors assigned to wi ward shall be a number divisible by three; and a copy of the parrelars of the number of councillors so assigned to the several wards of ke borough shall be forthwith transmitted to one of his Majesty's prinpal secretaries of state, and, subject as aforesaid to the approval of his Lijesty by the advice of his privy council, shall be published in the codon Gazette, and another copy of such particulars shall be delivered the town clerk of the borough, to be by him safely kept among the whic documents of such borough; and the number of councillors so regred to each ward of such borough shall, after such publication as bresaid, be the number to be elected in such ward, and shall so conme until the same shall be altered by authority of parliament: Prowed always, that if his Majesty, by the advice of his privy council, bil not approve the number of councillors so assigned to each ward, wh publication shall nevertheless be made, and the number of counflors so assigned to each ward of such borough by such barrister shall the number to be elected in such ward at any election of councillors nder this act until such time as his Majesty shall by advice of his thy council, upon further information and report from such barrister, Efinitively approve such assignment in manner herein-before mentioned.

XLI. And whereas it may be convenient in divers boroughs to adhere Apportionment the division of the same into wards to the ancient division thereof of councillors to parishes or into districts under any local act, or to adapt such for each ward mision to local circumstances, and such division so made might in which the nder difficult such apportionment of councillors as is herein-before ancient division nected; be it therefore enacted, That in every such case the said bar- is adhered to. mer or barristers shall be empowered, at his or their discretion, sub-Et as aforesaid to the approval of his Majesty by the advice of his privy mucil, to divide any borough in conjunction with the name of which, the said Schedule (A.), shall be mentioned any number of wards reater than two, into any number of wards more or less by one than to number of wards mentioned in conjunction with the name of such

wough in the said schedule.

XLII. That the said barrister or barristers shall have power to require Power to by overseer, or person having the custody of any book containing any examine rate the made for the relief of the poor, in any parish wholly or in part books. othin any borough to be divided into wards, to produce such book efore and allow the same to be inspected by the said barrister or bareters; and the said barrister or barristers shall have power to admileter an oath to the overseers and to all other persons, who are hereby equired to answer upon oath all such questions as the said barrister or wristers may put to them or any of them, touching any matter which le said barrister or barristers may deem necessary for enabling them

execute the duties by this act imposed upon them.

XLIII. That in every case in which there shall be a division into Councillors and of any borough, the burgesses of every such ward, and none and assessors thers, shall on the day fixed for the first election of councillors sepa- to be elected stely elect from the persons qualified to be councillors the whole num- in wards by the er of councillors assigned to such ward respectively, and on the first burgesses of by of November in any subsequent year shall separately elect from the such wards. resons qualified to be councillors one third part of the whole number f councillors assigned to such ward, and on the first day of March Ext after the first election of councillors in such ward, and in every mbsequent year, shall separately elect from the persons qualified to be buncillors two assessors for such ward; and every such ward election first after such division into wards of any such borough shall be held before the mayor, or the person whom the mayor for the time being shall

No. V. c. 76.

No. V. 5 & 6 W. 4, c. 76.

appoint in that behalf, and in every succeeding year shall be he before the alderman whom the councillors chosen in such ward sh yearly appoint in that behalf and before the two assessors of such wa and the assessors who shall hold the court for revising the burgess li with the mayor shall be the assessors of the mayor's ward, and votings and other proceedings in all other respects at such ward ele tions shall be conducted in the same manner as at elections of count lors or assessors respectively by the burgesses of the whole boroug and the alderman and assessors of each ward shall have the same power in regard to elections in their ward as the mayor and assessors for 1 whole borough if not divided into wards; and every person so elected councillor or assessor in such ward shall hold his office for the same til that he would have held it if he had been elected by the burgesses of t whole borough and if the number elected in such ward had been t whole number for the borough.

Burgesses to vote in the ward in which their property is situated.

Lists of the

burgesses in

each ward to

XLIV. That every burgess of any borough shall be entitled to vo in the election of the councillors and assessors to be chosen within the ward in which the property of such burgess for which he appears to rated on the burgess roll for the time being of such borough sha appear to be situated, and not otherwise; and if any burgess shall rated in respect of distinct premises in two or more wards, then he sha be entitled to be enrolled and to vote in such one of the said wards: he shall select, but not in more than one.

XLV. That for the purpose of better ascertaining who are the bu gesses of any such ward the burgess roll of every borough so divide into wards shall thenceforward be made out, by or under the directic of the town clerk, in alphabetical lists of the burgesses in each ward, be called "ward lists."

be made out yearly. Manner of proceeding if any

XLVI. That if at any election of councillors or assessors for an borough any person shall be elected a councillor or assessor in mo person is elected than one of the wards of such borough, he shall within three days aft a councillor in notice thereof choose, or in his default the mayor shall declare, f more than one which one of the said wards such councillor or assessor shall serve, an such person shall thereupon be held to be elected in that ward on which he shall so choose, or which the mayor shall so declare.

Occasional vacancies of councillor, auditor, or assessor to be filled up by fresh election.

ward.

XLVII. That if an extraordinary vacancy shall be occasioned in the office of councillor, auditor, or assessor for any borough, the burgess entitled to vote shall, on a day to be fixed by the mayor of suc borough, or in the case of a councillor or assessor, where the boroug shall have been divided into wards, by the alderman of the ward i which the vacancy has happened, (such day not to be later than te days after such vacancy,) elect from the persons qualified to be cour cillors another burgess to supply such vacancy; and such election shall be held, and the voting and other proceedings, in case of a con test, shall be conducted in the same manner and subject to the same provisions as are herein-before enacted with respect to the election councillors as aforesaid; and every person so elected shall hold suc office until the time at which the person in room of whom he wa chosen would regularly have gone out of office, and he shall then go ou of office, but shall be capable of immediate re-election if then qualified as herein provided: Provided always, that after the full number to b regularly elected of the councillors in any year shall have declare their acceptance of office no new election of councillors shall be mad by reason of such extraordinary vacancy, unless the number of coun cillors remaining after such vacancy shall not exceed two thirds of the whole number of the council of such borough.

XLVIII. That if any mayor, alderman, or assessor of any boroug who shall be in office at the time herein appointed for the revision by seers, &c. neg- them of the burgess list under this act, or for any election of council lecting to com- lors, assessors, or auditors which he is required to conduct or declare shall neglect or refuse to revise such burgess list, or to conduct of declare such election as aforesaid, every such mayor, alderman, and

Penalties on mayor, overply with provisions of this act.

No. V.

5 & 6 W. 4,

c. 76.

sessor shall for every such offence forfeit and pay the sum of one undred pounds; and if any overseer of any parish wholly or in part whin any borough shall neglect or refuse to make out, sign, and whiter such list as aforesaid, or if the town clerk of any borough shall exlect or refuse to receive, print, and publish such lists as aforesaid, rif any such overseer or town clerk shall refuse to allow any such at to be perused by any person having right thereunto, every such persect and town clerk respectively for every such offence shall forfeit pl pay the sum of fifty pounds; and the said penalties hereby in such me imposed shall be recovered, with full costs of suit, by any person a will sue for the same within three calendar months after the comusion of such offence, by action of debt or on the case in any of his bjesty's superior courts of record; and the money so to be recovered iall, after payment of the costs and expences attending the recovery ereof, be paid and apportioned as follows; (that is to say) one moiety breef to the person so suing, and the other moiety thereof to the resurer to be appointed by virtue of this act, to be by him applied in id of the borough fund herein-after mentioned.

ALIX. That on the ninth day of November (1) in every year the Council to rancil of the borough shall elect out of the aldermen or councillors of elect the mayor wh borough a fit person to be the mayor of such borough, who shall every year from mainue in his office for one whole year; and in case a vacancy shall the councillors. t occasioned in the office of mayor of the borough during such year reason of any person who shall have been elected to such office not repting the same, or by reason of his dying or ceasing to hold the ud office, the council of the borough shall within ten days after such exancy elect out of the aldermen or councillors of the said borough wither fit person to be the mayor thereof for the remainder of the then

erent year.

L That no person elected a mayor, alderman, or councillor, or Mayor, alderwiitor or assessor, for any borough, shall be capable of acting as such, men, and countcept in administering the declaration herein-after contained, until he cillors, auditall have made and subscribed before any two or more such aldermen tors and assesscouncillors (who are hereby respectively authorized and required to ors, not to act dminister the same to each other) a declaration in the words or to the until they have made a declara-

lect following; (that is to say,)

'I A. B., having been elected mayor [or alderman, councillor, audi- ance of office. do hereby declare, that I tor, or assessor for the borough of take the said office upon myself, and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability; [and we the case of the party being qualified by estate say, and I do hereby declare that I am seised or possessed of real or personal estate, or both, [as the case may be,] to the amount of one thousand pounds or five hundred pounds, as the case may require, over and above what will satisfy all my debts.].'

and that every alderman who shall have made and subscribed the Aldermen, if regoing declaration in respect of estate shall once in every period of required, to aree years, if required in writing so to do by any two members of the make a declaouncil, make and subscribe a declaration that he is qualified to the ration of qualiame amount in real or personal estate, or both, as the case may then fication once e, as the amount mentioned in the declaration originally made and in three years. ubscribed by him: Provided always, that nothing in this act contained ball be construed to dispense with the obligation of any person to make ad subscribe the declaration provided and enjoined by an act made in be ninth year of his late Majesty George the Fourth, intituled An Act 9 G. 4, c. 17. or repealing so much of several acts as imposes the necessity of receiving Le Sacrament of the Lord's Supper as a Qualification for certain Offices nd Employments.

LI. That every person duly qualified who shall be elected to the office Every burgess alderman, councillor, auditor, or assessor, and every councillor who elected to the

tion of accept-

⁽¹⁾ The first mayor under the act is to be chosen on the 1st January, 1836.

office of alderman, councilassessor, and every councillor elected to the office of mayor shall accept the office or pay a fine to the borough fund.

Exemptions.

Any mayor alderman, or councillor, if clared bankrupt or insolvent, or absent himself from the borough shall lose his . office.

shall be elected to the office of mayor, for any borough, shall accept su 5 & 6 W. 4, office to which he shall have been elected, or shall in lieu thereof pay the mayor, alderman, and burgesses of such borough such fine not ceeding fifty pounds in case of aldermen, councillors, auditors, or ass sors, and such fine not exceeding one hundred pounds in case of may as the council of such borough by a bye-law to be made as herein-af lor, auditor, or provided shall declare in that behalf; and such fine if not duly pe shall be levied by the warrant of any justice having jurisdiction with the borough, who is hereby required on the application of the council issue the same, by distress and sale of the goods and chattels of t person so refusing to accept office, with the reasonable charges of su distress; and every such person so elected shall accept such office making and subscribing the declaration herein-before mentioned with five days after notice of his election, otherwise such person shall liable to pay the said fine as for his non-acceptance of such office, a such office shall thereupon be deemed to be vacant and shall be fill up by a fresh election to be made in the manner herein-before me tioned: Provided always, that no person disabled by lunacy or imb cility of mind, or by deafness, blindness, or other permanent infirmity body, shall be liable to such fine as aforesaid: Provided also, that eve person so elected to any such office who shall be above the age of sixt five years, or who shall have already served such office respective or paid the fine for not accepting such office respectively, within fi years from the day on which he shall be so re-elected, shall be exempted from accepting or serving the same office if he shall claim such e emption within five days after notice of his election: Provided alway that nothing in this act contained shall extend to compel the acceptan of any office or duty whatever in any borough by any military, naval, marine officer in his Majesty's service on full pay, or by any officer other person employed and residing within any of his Majesty's doc yards, victualling establishments, arsenals, or barracks.

LII. Provided always, That if any person holding the office of may alderman, or conncillor for any borough shall be declared bankrupt, shall apply to take the benefit of any act for the relief of insolver he shall be de- debtors, or shall compound by deed with his creditors, or, being mayo shall be absent for more than two calendar months, or, being an alde man or councillor, for more than six months, at one and the san time, (unless in case of illness), from the borough of which I shall be mayor, alderman, or councillor, then and in every suc case such person shall thereupon immediately become disqualific and shall cease to hold the office of such mayor, alderman, councillor as aforesaid, and in the case of such absence shall be liab to the same fine, to be recovered in the same manner, as if he ha refused to accept the said office, and the council thereupon shall fortly with declare the said office to be void, and shall signify the same b notice in writing under the hands of three or more of them, counter signed by the town clerk, to be affixed in some public place within the borough, and the said office shall thereupon become void; but ever person so becoming disqualified and ceasing to hold such office on at count of his being declared a bankrupt, or of his applying to take th benefit of any act for the relief of insolvent debtors, or having com pounded with his creditors as aforesaid, shall on obtaining his certificat or on payment of his debts in full, be capable (if otherwise qualified of being re-elected to such office, and every person becoming disqualifie to hold such office, on account of absence as aforesaid, shall on his return to such borough be capable of being re-elected to such office, provided h

shall then be otherwise qualified.

LIII. That if any person shall act as mayor, alderman, or councillor or auditor or assessor, for any borough, without having made the decla ration herein-before required in that behalf, or without being duly qua acting as may. lifted at the time of making such declaration, or after he shall cease to or, alderman, or be qualified according to the provisions of this act, or after he shall have

Penalty on persons not qualified, &c. councillor.

some disqualified to hold any such office, he shall for every such sence forseit the sum of fifty pounds, such sum to be recovered, with 5 & 6 W. 4, il costs of suit, by any person who will sue for the same within three alendar months after the commission of such office, by action of debt ron the case in any of his Majesty's superior courts of record; and say person so sued by reason of not being so qualified in respect of state shall prove that he was at the time of so acting qualified as aforeaid, or otherwise shall pay the said penalty, without any further evidence given on the part of the plaintiff than that such person has acted the mayor, or as alderman, councillor, auditor, or assessor (as the case my be) of such borough: Provided always, that it shall be lawful for my defendant, by judge's order to be obtained within fourteen days ther he shall have been served with process in any such action, to repure the plaintiff to give security for costs; and in such case all ather proceedings in the said cause shall be stayed until the plaintiff hall give security to the satisfaction of the proper officer of the court in the costs of such action in case a verdict shall pass for the defendant, we the plaintiff shall become non-suit, or discontinue such action, or I upon demurrer or otherwise judgment shall be given against the plaintiff; and the defendant shall in either of such cases recover his costs as between attorney and client: Provided also, that no such whon shall be brought except by a burgess of such borough, nor unless burgess bringing the same shall, within fourteen days after the commission of the offence, have served a notice in writing personally upon he party committing such offence of his intention to bring such action; and in case the plaintiff in any such action shall obtain a verdict, the noney so to be recovered shall, after payment of the costs and expences stending the recovery thereof, be paid and apportioned as follows; (that a to say,) one moiety thereof to the person so suing, and the other moiety thereof to the treasurer to be appointed by virtue of this act, to by him applied in aid of the borough fund: Provided always, that all Proviso. acts and proceedings of any person in possession of the office of mayor, klerman, councillor, auditor, or assessor, and acting as a mayor, alderman, councillor, auditor, or assessor, shall, notwithstanding such disqualification or want of qualification, be as valid and effectual as if such person had been duly qualified.

LIV. That if any person who shall have or claim to have any right to Persons conrote in any election of mayor, or of a councillor, auditor, or assessor of victed of briany borough, shall, after the passing of this act, ask or take any money bery disqualior other reward by way of gift, loan, or other device, or agree or contract fied from voting or any money, gift, office, employment, or other reward whatsoever, to at any election give or forbear to give his vote in any such election, or if any person, in the borough. by himself or any person employed by him, shall, by any gift or reward, or by any promise, agreement, or security for any gift or reward, corrupt or procure, or offer to corrupt or procure, any person to give or forbear to give his vote in any such election, such person so offending in any of the cases aforesaid shall for every such offence forfeit the sum of fifty pounds of lawful money of Great Britain, to be recovered, with full costs of suit, by any one who shall sue for the same, by action of debt, bill, plaint, or information in any of his Majesty's courts of Record at Westminster; and any person offending in any of the cases aforesaid, being lawfully convicted thereof, shall for ever be disabled to vote in any election in such borough, or in any municipal or parliamentary election whatever in any part of the United Kingdom, and also shall for ever be disabled to hold, exercise, or enjoy any office or franchise to which he then shall or at any time afterwards may be entitled as a burgess of such borough, as if such person was naturally dead.

LV. That if any person offending in any of the cases aforesaid shall, Persons ofwithin the space of twelve months next after such election as aforesaid, dis-fending in any cover any other person offending in any of the cases aforesaid, so that such of the cases other person be thereon convicted, such person so discovering, and not aforesaid dishaving been before that time convicted of any such offence, shall be in-covering others

so offending, to be discharged from all penalties.

demnified and discharged from all penalties and disabilities which h No. V. 5 & 6 W. 4, shall then have incurred by any such offence.

c. 76. No person liable to inca-&c. unless prosecuted within two years.

The mayor, to be a justice of the peace and returning officer at elections of members to serve in parliament.

Power to council to appoint town clerk, treasurer, and other officers;

and to take security for due discharge of their official duties. Salaries.

Treasurer to pay no money council.

LVI. Provided always, That no person shall be made liable any incapacity, disability, forfeiture, or penalty by this act impose in any of the cases aforesaid, unless prosecution be commence within two years after such incapacity, disability, forfeiture, or penal pacity, penalty, shall be incurred, any thing herein contained to the contrary no withstanding.

LVII. That the mayor for the time being of every borough shall be justice of the peace of and for such borough, and shall continue to such justice of the peace during the next succeeding year after he sha for the borough cease to be mayor, unless disqualified as aforesaid; and such may shall, during the time of his mayoralty, have precedence in all place within the borough, and in boroughs which return a member or men bers to serve in parliament, other than the town of Berwick-upon-Twee and other than cities and towns which are counties of themselves, sha be the returning officer at all such elections; and in case the mayo shall, at the time when he shall be required to perform the duties (such returning officer, be dead, absent, or otherwise incapable of acting or in case there shall be no mayor, the council of such borough sha forthwith elect one of the aldermen to be the returning officer for suc borough in the place of the mayor being so dead, absent or otherwis incapable: Provided always, that in every case where there shall b more than one mayor within the boundaries of any borough as the sam are or shall at any future time be settled in so far as respects the elec tion of members to serve in parliament the mayor of that borough t which the writ of election shall be directed shall be the returning officer

> LVIII. That the council of every borough, on the ninth day November in this present year, shall appoint a fit person, not being member of the council, to be the town clerk of such borough, who shall hold his office during pleasure: and in any borough may be a attorney of one of his Majesty's superior courts at Westminster, an law, statute, charter, or usage to the contrary notwithstanding; and the council of every borough shall in every year appoint another fi person, not being a member of the council, to be the treasurer of th borough, and also such other officers as have been usually appointed i such borough, or as they shall think necessary for enabling them t carry into execution the various powers and duties vested in them b virtue of this act, and may from time to time discontinue the appoint ment of such officers as shall appear to them not necessary to be re appointed; and shall take such security for the due execution of hi office by any such town clerk, treasurer, or other officer, as the said council shall think proper; and shall order to be paid to the mayor and to the town clerk and treasurer, and to every such other officer t be employed as aforesaid, such salary or allowance as the said counci shall think reasonable; and in case of a vacancy in any such office a aforesaid by death, resignation, removal, or otherwise, the council of such borough may appoint another fit person in the place of the person so making such vacancy; provided that the town clerk and treasure shall not be the same person.

LIX. That the treasurer of any borough shall pay no money on ac count of the mayor, aldermen, and burgesses of such borough, sav but by order of only in such case as is provided by this act, or upon the order in writing of the council, signed by three or more members of the council, and countersigned by the town clerk of such borough, or by order of th court of sessions of the peace for the borough, or of a justice of the peac acting in and for the borough in the discharge of his judicial duty, 11 such case as is provided by this act, or in such case as a court of ses sions of the peace for any county, or a justice of the peace acting in and for a county in the discharge of his judicial duty, may make an order for the payment of money on the treasurer of such county, or for the pay

ent of the salaries granted to any recorder or police magistrate as

brein-after provided.

LY. That every town clerk, treasurer, or other officer appointed by me council as aforesaid shall, at such times during the continuance of be office, or within three months after the expiration of his office, and Officers to 1 such manner as the said council shall direct, deliver to the council, account, &c. s to such person as they shall authorize for that purpose, a true according to mount in writing of all matters committed to his charge by virtue of the orders of is act, and also of all monies which shall have been by him received the council. virtue or for the purposes of this act, and how much thereof shall im been paid and disbursed, and for what purposes, together with soper vouchers for such payments, and also a list of the names of all sch persons as shall not have paid the monies due from them for the proses of this act, and of the amount due from each of them; and such officer shall pay all such monies as shall remain due from im to the treasurer for the time being, or to such person as the said small authorize to receive the same; and if any such officer Summary refuse or wilfully neglect to deliver such account, or the vouchers remedy against rising to the same, or such list as aforesaid, or to make payment as officers for to the said coun- not account-I or to such person as they shall authorize, within three days after ing, &c. king thereunto required by notice in writing under the hands of any three or more of the said council, to be given to or left at the last place d abode of such officer, all books, papers, and writings in his custody repower relating to the execution of this act, or to give satisfaction to the said council, or to such other person as aforesaid, respecting the ame, then and in every such case, upon complaint made on behalf of the said council, by such person as they shall authorize for that purpose, of any such refusal or wilful neglect as aforesaid, to any justice of the peace for the county or other jurisdiction wherein such officer so refusing or neglecting shall be or reside, such justice is hereby authonzed and required to issue a warrant under his hand and seal for bringing such officer before any two justices of the peace for such county or jurisdiction; and upon the said officer appearing, or not being found, it shall be lawful for such justices to hear and determine the matter in a summary way; and if it shall appear to such justices that any monies remain due from such officer, such justices may and they are hereby authorized and required, upon nonpayment thereof, by Farrant under their hands and seals, to cause such monies to be levied by distress and sale of the goods of such officer; and if sufficient goods shall not be found to satisfy the said monies and the charges of the distress, or if it shall appear to such justices that such officer has refused or wilfully neglected to deliver such account, or the vouchers relating thereto, or such list as aforesaid, or that any books, papers, or writings relating to the execution of this act remain in the hands or in the custody or power of such officer, and that he has refused or wilfully neglected to deliver the same, or to give satisfaction respecting the same as aforesaid, then and in every such case such justices shall and they are hereby required to commit such offender to the common gaol or house of correction for the county or jurisdiction where such offender shall be or reside, there to remain without bail until he shall have paid such monies as aforesaid, or shall have compounded with the said council for such monies, and shall have paid such composition in such manner as they shall appoint, (which composition the said council are hereby empowered to make and receive,) or until he shall have delivered a true account as aforesaid, together with such vouchers and lists as aforesaid, or until he shall have delivered up such books, papers, and writings, or have given satisfaction in respect thereof, to the said council, or to such other person as aforesaid, as the case may be: Provided Proviso. always, that no person so committed shall be detained in prison for want of sufficient distress only for a longer space of time than three calendar months: Provided also, that nothing in this act contained shall Remedy by

No. V. 5 & 6 W. 4, c. 76.

Councils of which are counties to name a sheriff.

prevent or abridge any remedy by action against any such officer (5 & 6 W. 4, offending as aforesaid, or against any surety for any such officer, by such officer shall not be sued by action and also proceeded against in summary manner by virtue of this act for the same cause.

LXI. That in the city of Oxford, in the town of Berwick-upol cities and towns Tweed, and in the counties of the cities of Bristol, Canterbury, Cheste Coventry, Exeter, Gloucester, Lichfield, Lincoln, Norwich, Worceste and York, and in the counties of the towns of Caermarthen, Haverford west, Kingston-upon-Hull, Newcastle-upon-Tyne, Nottingham, Pool and Southampton, the council shall on the first day of November i every year appoint a fit person to execute the office of sheriff, with the like duties and powers as the sheriff or the person filling the office sheriff in the said town and counties respectively would have had this act had not passed; and every person who, at the time of the passing of this act, shall hold the office or execute the duties of sheri in the said town and counties respectively shall continue to hold an execute the same until the first appointment of a sheriff therein under the provisions of this act, and no longer.

In certain boroughs, council to appoint a coroner.

LXII. That the council of every borough in which a separate coul of quarter sessions of the peace shall be holden, as is herein-after provided, shall, within ten days next after the grant of the said court shall have been signified to the council of such borough, appoint a fit perso not being an alderman or councillor, to be coroner of such borough s long as he shall well behave himself in his office of coroner, and shall fill up every vacancy of the office of coroner of the borough, by death resignation, or removal, within ten days next after such vacancy shall have occurred, and none thereafter shall take any inquisition which be longs to the office of coroner within such borough save only the corone so from time to time to be appointed; and every such coroner, for ever inquisition which he shall duly take within such borough, shall be en titled to have the sum of twenty shillings, and also the sum of nine pence for every mile exceeding two miles which he shall be compelled to travel from his usual place of abode to take such inquisition, to b paid by the treasurer out of the borough fund of such borough, by order of the court of quarter sessions for such borough.

LXIII. That on or before the first day of February in every year after the passing of this act every coroner appointed in any boroug shall make and transmit to one of his Majesty's principal secretaries o state a return in writing, according to such form as the said secretar, of state from time to time shall direct, of all the cases in which he may have been called upon to hold an inquest touching the cause of death of any person during the year ending on the thirty-first day of Decembe

immediately preceeding.

Coroners to make returns to secretary of state.

County coroners to act in

LXIV. That in every borough in and for which no separate court of quarter sessions of the peace shall be holden no person from and afte other boroughs, the end of this present year shall take any inquisition which belongs to the office of coroner within such borough, save only the coroner for the county or district in which such borough is situated; and the corone of such county or district, for every inquisition which he shall duly take within any place or precinct within any such borough, shall be entitled to have such rateable fees and salary as would be allowed and due to him, and to be allowed and paid in like manner, as for any other inqui sition taken by him within such county: Provided always, that nothing in this act contained shall extend or be construed to annul, diminish or affect the authority of the lord high admiral, or of the commissioners for executing the office of lord high admiral of the United Kingdom for the time being, or of the judge of the high court of admiralty of England as the lieutenant of the lord high admiral in the said court, to appoint coroners to act within the jurisdiction of the admiralty in the severa ports and havens and on the sea coast of England, and to take inquisitions touching deaths happening within the said jurisdiction, as hath heretofore been done.

LXV. That the council elected under this act in any borough shall we power to remove from his office every bailiff, treasurer, or cham- 5 & 6 W. 4, erlain, and every other ministerial or executive officer of such borough si body corporate who shall be in office at the time of the first election councillors under this act; and every such bailiff, treasurer, or cham- Council emmain, and every other ministerial or executive officer in such borough, powered to recontinue to act in the same capacity as heretofore, and to execute move certain the duties heretofore belonging to his office, and be entitled to have officers. wame salaries, fees, and emoluments as he would have had if this Such officers to n had not passed, until he shall be removed from his office, and no continue until eger, unless he shall be re-appointed according to the provisions of removed. is act; and every officer who shall be in possession or receipt of any weies, goods, valuable securities, books, and papers belonging to or meerning the body corporate whose officer he is shall deliver up and acand for the same to the council of such body corporate appointed under as act; and the council shall have the same remedy against such officer a recover the same as is herein-before provided in the case of officers spointed by such council; Provided always, that all the charters, teds, muniments, and records of every borough, or relating to the resperty thereof shall be kept in such place as the council from time to shall direct, and the town clerk for the time being shall have the dange and custody of and be responsible for the same.

LXVI. That every officer of any borough or county who shall be in Officers to reoffice of profit at the time of the passing of this act, whose office ceive compenbe abolished, or who shall be removed from his office under the sation on re-Forisions of this act, or who shall not be re-appointed as aforesaid, shall moval; entitled to have an adequate compensation, to be assessed by the wancil, and paid out of the borough fund, for the salary, fees, and moluments of the office which he shall so cease to hold, regard being to the manner of his appointment to the said office, and his term or therein, and all other circumstances of the case; and every to deliver state-Fron entitled to such compensation as aforesaid shall deliver to the ment of claims. der clerk, or in case such person shall himself be town clerk then to be treasurer of the borough, a statement under the hand of such person etting forth the amount received by him or his predecessors in every ear during the period of five years next before the passing of this act n account of the salary, fees, emoluments, profits, and perquisites in respect whereof he shall claim such compensation, distinguishing the fice, place, situation, employment, or appointment in respect whereof the same shall have been received, and containing a declaration that the ame is a true statement according to the best of the knowledge, information, and belief of such person, and also setting forth the sum claimed by him as such compensation; and the town clerk or treasurer, as the case shall be, shall lay such statement before the council, who shall take the same into consideration, and determine thereon; and immediately apon such determination being made the person preferring such claim, the shall not himself be the town clerk, shall be informed thereof by notice in writing under the hand of the town clerk; and in case such claim shall be admitted in part and disallowed in part, such notice shall pecify the particulars in which the same shall have been admitted and disallowed respectively; and in case the person preferring such claim think himself aggrieved by the determination of the council thereon, or in case one third of the members of the council shall suberibe a protest against the amount of compensation allowed by the determination of the council as excessive, it shall be lawful for the person preferring such claim, or any member of the council who shall becribe such protest, to appeal to the lords commissioners of his Majesty's treasury, who shall thereupon make such order as to them seem just; and such order, signed by three or more of such lords commissioners, shall be binding on all parties: Provided always, That the council shall not determine on such claim within six calendar months after the aforesaid statement shall be delivered to the town clerk

No. V.

or treasurer, as the case shall be, such claim shall be considered 5 & 6 W. 4, admitted: Provided also, That it shall not be lawful for any member the council to subscribe such protest as aforesaid except within su period of six calendar months: Provided also, That the person preferri such claim, if any member of the council shall so require, upon receiv notice in writing signed by the town clerk, unless such person sl himself be town clerk, in which case no such notice shall be requisi shall from time to time attend at any meeting or adjourned meeting the council for the investigation of such claim, and then and there, up his oath or solemn affirmation, to be taken or made before the may (who is hereby authorized to administer the same,) shall answer all su questions as shall be asked by any member of the council touching matters set forth in the statement subscribed by such person as afor said, and produce all books, papers, and writings in his possessi custody, or power relating thereto: Provided also, That every su officer who shall be continued in or re-appointed to such office und the provisions of this act, and who shall be subsequently removed from such office for any cause other than such misconduct as would warra removal from any office held during good behaviour, shall be entitled compensation in like manner as if he had been forthwith removed und the provisions of this act, and had not been continued in or re-appoint to such office.

Compensation to be secured by bond under common seal.

LXVII. That the sum payable to any person as such compensation as aforesaid shall be secured to such person by bond or obligation und the common seal of the borough out of whose funds the same shall payable, in a sufficient penalty, conditioned for the payment to such person, his executors or administrators or assigns, of such sum, with arrears thereof (if any) accrued due before the date of such bond; ar such bond or obligation shall be prepared and executed at the expens of the borough fund, and delivered to the person entitled to such con pensation as soon as conveniently may be after the amount thereof sha have been admitted as aforesaid by the council of the borough; or sha have been determined, in the event of such appeal as aforesaid, by the order of the said lords commissioners.

Reservation of certain pen- · sions and allowances.

LXVIII. That all pensions and allowances granted on or before the fifth day of June in this present year, by the corporate body named the said schedules (A.) and (B.) in conjunction with any borough, to an retired officer or servant, or to the widow or child of any officer servant, and all stipends and allowances which during seven years ner before the said fifth day of June have been usually paid and granted the minister or late minister of any church or chapel, or to the maste or usher of any school, or to the governor or master of any hospita within such borough, and all charitable allowances which have been usuall paid as aforesaid to the inmates of any almshouses by such corporat body, shall be secured, as soon as conveniently may be after the passin of this act, to every person entitled or accustomed to have and receiv the same, by bond or obligation under the common seal of the boroug out of whose funds the same shall be payable, in a sufficient penalty conditioned for the payment to such person, his executors and adminis trators, of such pension, stipend, or allowance, with all arrears thereof if any, accrued due before the date of such bond; and such bond o obligation shall be prepared and executed at the expence of the borougl fund.

All acts of the council to be decided by a majority of councillors present; one third part of the whole number to be a quorum.

LXIX. That all acts whatsoever authorized or required by virtue o this act to be done by the council of such borough, and all questions o adjournment or others that may come before such council, may be done and decided by the majority of the members of the council who shall be present at any meeting held in pursuance of this act, the whole number present at such meeting not being less than one third part of the number of the whole council; and at all such meetings the mayor, if present, shall preside; and the mayor, or, in the absence of the mayor, such alderman, or in the absence of all the aldermen, such councillor as the mbers of the council then assembled shall choose to be the chairman that meeting, shall have a second or casting vote in all cases of 5 & 6 W. 4, thity of votes; and minutes of the proceedings of all such meetings il be drawn up and fairly entered into a book to be kept for that mose, and shall be signed by the mayor, alderman, or councillor preing at such meeting; and the said minutes shall be open to the pection of any burgess at all reasonable times on payment of a fee of shilling: Provided always, That previous to any meeting of the Notice of meetacil held by virtue of this act a notice of the time and place of such ings of council. nded meeting shall be given three clear days at least before such rting, by fixing the said notice on or near the door of the town hall the borough; and such notice shall be signed by the mayor, who d have power to call a meeting of the council as often as he shall ak proper; and in case the mayor shall refuse to call any such meetafter a requisition for that purpose signed by five members of the meil at the least shall have been presented to him, it shall be lawful the said five members to call a meeting of the council by giving such re as is herein-before required in that behalf, such notice to be med by the said members instead of the mayor, and stating therein business proposed to be transacted at such meeting; and in every t a summons to attend the council, specifying the business proposed r transacted at such meeting, signed by the town clerk, shall be left the usual place of abode of every member of the council or at the mises in respect of which he is enrolled a burgess, three clear days Last before such meeting; and no business shall be transacted at h meeting other than is specified in the notice: Provided always, Quarterly it there shall be in every borough four quarterly meetings in every meetings of at which the council shall meet for the transaction of general busi-*, and no notice shall need to be given of the business to be transed on such quarterly days; and the said quarterly meetings shall be den at moon on the ninth day of November, or if the ninth day of rember shall fall on a Sunday on the day following, and at such hour such other three days before the first day of November then next owing as the council at the quarterly meeting in November shall ide; and the first business transacted at the quarterly meeting in rember shall be the election of mayor. XX. That it shall be lawful for the council of any borough to appoint Council may

No. V. c. 76.

of their own body, from time to time, such and so many committees, appoint comer of a general or special nature, and consisting of such number of mittees. sons as they may think fit, for any purposes which, in the discretion rach council, would be better regulated and managed by means of h committees: Provided always, that the acts of every such com-

we shall be submitted to the council for their approval.

XXI. And whereas divers bodies corporate now stand seised or Charitable sessed of sundry hereditaments and personal estate, in trust, in whole trustees. in part, for certain charitable trusts, and it is expedient that the unistration thereof be kept distinct from that of the public stock and ough fund; be it enacted, That in every borough in which the body porate, or any one or more of the members of such body corporate, his or their corporate capacity, now stands or stand solely, or ether with any person or persons elected solely by such body corate, or solely by any particular number, class, or description of mbers of such body corporate seised or possessed for any estate or rest whatsoever of any hereditaments, or any sums of money, chatsecurities for money, or any other personal estate whatsoever, in ple or in part in trust or for the benefit of any charitable uses or sts whatsoever, all the estate, right, interest, and title, and all the rers of such body corporate, or of such member or members of such ly corporate, in respect of the said uses and trusts, shall continue in persons who at the time of the passing of this act are such trustees aforesaid, notwithstanding that they may have ceased to hold any ce by virtue of which before the passing of this act they were such

trustees, until the first day of day of August one thousand eight hund 5 & 6 W. 4, and thirty-six, or until parliament shall otherwise order, and sl immediately thereupon utterly cease and determine: Provided always That if any vacancy shall be occasioned among the charitable trust for any borough before the said first day of August, it shall be law for the lord high chancellor or lords commissioners of the great seal the time being, upon petition, in a summary way, to appoint anot trustee to supply such vacancy; and every person so appointed trustee as last aforesaid shall be a trustee until the time at which person in the room of whom he was chosen would regularly have cea to be a trustee, and he shall then cease to be a trustee: Provided a That if parliament shall not otherwise direct, on or before the said f day of August one thousand eight hundred and thirty-six, the lord h chancellor or lords commissioners of the great seal shall make st orders as he or they shall see fit for the administration, subject to st charitable uses or trusts as aforesaid, of such trust estates.

Council to act as trustees where corporators were ex officio sole trustees.

LXXII. That the body corporate named in the said schedules (and (B.) in conjunction with any borough shall be trustees for execut by the council of such borough the powers and provisions of all act parliament made before the passing of this act, (other than acts mi for securing charitable uses and trusts,) and of all trusts (other th charitable uses and trusts) of which the said body corporate, or any the members thereof in their corporate capacity, was or were trustees before the time of the first election of councillors in 81 borough under this act.

Council to ap**n**umber of councillors to be joint trustees for certain purposes.

LXXIII. That in every borough in which the body corporate, or point a limited particular or limited number, class, or description of members of body corporate, or of persons appointed by the body corporate, was were before the passing of this act trustees jointly with other trust for the execution of any act of parliament, or of any trust, or in wh the body corporate, or any particular or limited number, class, description of members or nominees of the body corporate, by statute, charter, bye-law, or custom was or were before the passing this act lawfully appointed to or exercised any powers, duties, or fu tions whatsoever not otherwise herein provided for, and the continual of which is not inconsistent with the provisions of this act, the cour of such borough, on the day named in such act as last aforesaid, or the deed or will by which such trust is created for a new electi nomination, or appointment of trustees, or on which such new election nomination, or appointment has usually been made, (and if there sl be no such day named or usually observed, then on the first day January in every year,) shall appoint the like number of members of council, or as near as may be to the like number of members of council, as there were theretofore members or nominees of such corpor body who in right of their office were such trustees, or charged with execution of such powers, duties, and functions, in room of the memb or nominees of such corporate body ceasing to be trustees, or ceasi to exercise such powers, duties, and functions by virtue of this act, a in every case of extraordinary vacancy among the trustees or P sons so appointed by the council shall forthwith appoint one ot member of the council in the room of the person by whom st vacancy has been made, and to hold his trust or office for such ti as the person by whom such vacancy has been made would regula have held it.

Present trusfor a definite time.

LXXIV. That notwithstanding any thing in this act contained, ev tees for certain member of any body corporate who in his corporate capacity, a acts continued every nominee of any body corporate, or any particular number, cla or description of members of such body corporate, who at the time the passing of this act shall be for a definite number of years or otl shorter time a trustee of such acts or trusts as last aforesaid, shall co tinue to be such trustee until the time when he would have ceased be such trustee if this act had not passed; and if a trustee for an in

mite time, or for life, or for so long as he shall be a member, or of a sticular class or description of such body corporate, then until the 5 & 6 W. 4, st day of January in the year one thousand eight hundred and thirty-L, and no longer; and every member of the council appointed under reprovisions of this act to be a trustee of such acts or trusts as last mesaid shall continue to be such trustee until the time herein provii for the new appointment of a member of the council to be trustee his room, notwithstanding that he may have ceased to be a member the council; and in case any particular member or officer of any of Trustees not to said bodies corporate shall have been appointed by any such act, or go out of office ! my such trust deed or will as last aforesaid, to perform during a by reason of mite number of years or other shorter time any specific powers, du-ceasing to be of m, or functions whatsoever; the person who at the time of the passing the council unthis act shall be the person designated and qualified to perform the til the time preme shall continue to perform the same until the time when he would scribed by the tre ceased to perform the same if this act had not passed; and if aptrest. med for an indefinite time, or for life, or for so long as he shall be a ember, or of a particular class or description of such body corporate, en until the first day of January in the year one thousand eight hunand thirty-six and no longer: Provided nevertheless, that nothing this act shall be construed to extend to the body corporate of the blees of the Liverpool docks, but that every person who at the time of passing of this act shall be a trustee of the Liverpool docks, and e other, shall be continued to be such trustee until the first day of exember in the year one thousand eight hundred and thirty-six, and blonger; and every such trustee who is appointed to discharge, or in scorporate capacity discharges any powers, duties, or functions whatever in respect of the said last-mentioned trust estate, and none other, continue to discharge the same, as if this act had not passed, until First day of November in the year one thousand eight hundred and mty-six, and no longer.

LXXV. And whereas it may be expedient that the powers now vested Powers vested the trustees appointed under sundry acts of parliament for paving, in trustees may thing, cleansing, watching, regulating, supplying with water, and be transferred sproving certain boroughs, or certain parts thereof, should be transand to and vested in the councils of such boroughs respectively; tit enacted, That the trustees appointed by virtue of any such act of mament as last aforesaid, wherein the trustees, or the persons whose betees they may be, are not beneficially interested, may, if it shall m to them expedient, at a meeting to be called for that purpose, usfer in writing under their hands and seals all the powers vested in as such trustees by any such act or acts of parliament as aforesaid the said body corporate of such borough, and the said body corporate each borough shall thenceforth be trustee for executing by the council such borough the several powers and provisions of any such act or is of parliament, and the members of the council shall have the same Fers and be subject to the same duties as if their names had been iginally inserted in such act or acts, or as if they had been elected ider the provisions of any such act or acts as such trustees respecrely: Provided always, that no such transfer as aforesaid shall be made the powers vested by virtue of the acts mentioned in schedule (E.) such relate to the town of Cambridge, without the consent of the encellor, masters, and scholars of the university of Cambridge.

LXXVI. That the council to be elected for any borough shall, imme- A watch comately after their first election, and so from time to time thereafter as they mittee to be apdeem expedient, appoint, for such time as they may think proper, pointed, to consufficient number of their own body, who, together with the mayor of and councilborough for the time being, shall be and be called the Watch commen; such
interesting the second of these may be executed by the majority of these who shall be may ommittee may be executed by the majority of those who shall be pre-appoint contat any meeting of such committee, the whole number present at stables for the ech meeting being not less than three; and such watch committee shall, borough.

No. V. c. 76.

to councillors.

Constables to be for the county, &c., as well as borough.

Watch comregulations for the management of the constables.

Power to constables to apprehend disorderly persons, &c.

Constables attending at the cognizance from persons them for petty misdemeanours, such recognizance to be conditioned ties before a magistrate.

In default of cognizance to be forfeited.

within three weeks after their first formation, and so from time to t 5 & 6 W. 4, thereafter as occasion shall require, appoint a sufficient number of men who shall be sworn in before some justice of the peace hav jurisdiction within the borough to act as constables for preserving peace by day and by night, and preventing robberies and other felon and apprehending offenders against the peace; and the men so sw shall not only within such borough, but also within the county in wh such borough or part thereof shall be situated, and also within ev county being within seven miles of any part of such borough, and a within all liberties in any such county, have all such powers and pr leges, and be liable to all such duties and responsibilities, as any c stable duly appointed now has or hereafter may have within his cons blewick by virtue of the common law of this realm, or of any statu made or to be made, and shall obey all such lawful commands as tl may from time to time receive from any of the justices of the per having jurisdiction within such borough, or within any county in wh they shall be called on to act as constables, for conducting themsel in the execution of their office.

LXXVII. That the watch committee for any such borough as afo mittee to make said may from time to time frame such regulations as they shall deexpedient for preventing neglect or abuse, and for rendering such co stables efficient in the discharge of their duties; and the said committ or any two justices of the peace having jurisdiction within the boroug may at any time suspend or dismiss any constable whom they sh think negligent in the discharge of his duty, or otherwise unfit for t same; and when any man shall be so dismissed, or cease to belong the said constabulary force, all powers vested in him as a constable virtue of this act shall immediately cease; and no man so dismissed aforesaid shall be re-appointed without the consent of two of the justic

of the peace having jurisdiction within the borough.

LXXVIII. That it shall be lawful for any constable during the tir of his being on duty to apprehend all idle and disorderly persons who he shall find disturbing the public peace, or whom he shall have ju cause to suspect of intention to commit a felony, and to deliver as person so apprehended into the custody of the constable appoint under this act, who shall be in attendance at the nearest watch-hous in order that such person may be secured until he can be broug before a justice of the peace to be dealt with according to law, or many give bail for his appearance before a justice of the peace, if the co stable shall think fit to take bail, in the manner herein-after mentione

LXXIX. That where any person charged with any petty misd meanour shall be brought without the warrant of a justice of the pear watchhouses in into the custody of any constable appointed under this act, during h the night may attendance in the night-time at any watch-house within any suc take bail by re-borough as aforesaid, it shall be lawful for such constable, if he sha think fit, to take bail by recognizance, without any fee or reward, from such person, conditioned that such person shall appear for examination brought before within two days before a justice of the peace within the borough some time and place to be specified in the recognizance; and every re cognizance so taken shall be of equal obligation on the parties enterin into the same, and liable to the same proceedings for the estreatin thereof, as if the same had been taken before a justice of the peace; an for the appear- the constable shall enter in a book, to be kept for that purpose in ever ance of the par- watch-house, the names, residence, and occupation of the party, an his surety or sureties, if any, entering into such recognizance, together with the condition thereof, and the sums respectively acknowledged, an shall lay the same before such justice as shall be present at the tim and place when and where the party is required to appear; and if th appearance re- party does not appear at the time and place required or within one hou after, the justice shall cause a record of the recognizance to be draw! up to be signed by the constable, and shall return the same to the nex general or quarter sessions of the peace for the borough, or for th

mty in which such borough is situate, in those boroughs for which re shall be no separate general or quarter sessions of the peace, with ertificate at the back thereof, signed by such justice, that the party inot complied with the obligation therein contained; and the clerk the peace shall make the like estreats and schedules of every such gnizance as of recognizances forfeited in the sessions of the peace; if the party not appearing shall apply by any person on his behalf Time of hearostpone the hearing of the charge against him, and the justice shall ing may be k fit to consent thereto, the justice shall be at liberty to enlarge the postponed. gnizance to such further time as he shall appoint; and when the ter shall be heard and determined, either by the dismissal of the plaint or by binding the party over to answer the matter thereof at sessions, or otherwise, the recognizance for the appearance of the ly before a justice shall be discharged without fee or reward.

XXX. That if any constable of any borough shall be guilty of any Penalties on ket of duty or of any disobedience of any lawful order, every such constables for nder, being convicted thereof before any two justices of the peace, neglect of duty. lifor every such offence be liable to be imprisoned for any time not eding ten days, or to be fined in any sum not exceeding forty shil-By or to be dismissed from his office, as such justices shall in their

metion think meet.

WAXI. That if any person shall assault or resist any constable of Penalty for asporough appointed under this act in the execution of his duty, or saults on conaid or incite any person so to assault or resist, every such offender, stables. ag convicted thereof before any two justices of the peace, shall for ry such offence forfeit and pay such sum not exceeding five pounds the said justices shall think meet: Provided always, That nothing Proviso. rin contained shall prevent any prosecution by way of indictment ainst any person so offending, but so as that such person shall not be secuted by indictment and also proceeded against under this act for same offence.

LXXXII. That the treasurer of every borough appointed under this Regulation and ishall pay to the constables of such borough appointed under this act payment of th salaries, wages, and allowances, and at such periods, as the watch expences. muittee for such borough shall, subject to the approbation of the mail, direct, and the council shall order to be paid also any extradinary expences which such persons shall appear to have necessarily curred in apprehending offenders and executing the orders of any stice of the peace having jurisdiction within such borough, such pences having been first examined and approved by such justice; and Rewards for e said treasurer shall also pay such further sums as the watch com-activity, &c. ttee shall, subject to the approbation of the council, award to any of e persons belonging to the said constabulary force, as a reward for traordinary diligence or exertion, or as a compensation for wounds or vere injuries received in the performance of their duty, or as an brance to such of them as shall be disabled by bodily injury rewed, or shall be worn out by length of service, and all other charges ul expences which the watch committee shall, subject to the approbaof the council, direct to be paid for the purposes of the consta plary force under this act.

LXXXIII. That any two or more of the justices of the peace having Magistrates to insdiction within any borough are hereby authorized and required in appoint annue month of October in every year to nominate and appoint by precept ally a certain writing, under their hands, so many as they shall think fit of the in- number of perabitants of such borough (not legally exempt from serving the office of sons to act as metable), to act as special constables within such borough whensoever special constabey shall be required by the warrant of any of the justices of the peace bles. aving jurisdiction within such borough so to act, and not otherwise; ad every such warrant shall recite that in the opinion of the justice ranting the same the ordinary police force of the borough is insuffilent at that time to maintain the peace of the borough; and every *150n so appointed a special constable shall take the oath set forth in

No. V. 5 & 6 W. 4, c. 76.

No. V.

Payment of bles.

On notice of present provisions in local acts as to watching, &c. to cease.

Watchboxes. given up for the use of the constables appointed under this act.

the act passed in the session of parliament holden in the first a 5 & 6 W. 4, second years of the reign of his present Majesty, intituled An Act amending the Laws relative to the Appointment of Special Constables, a I for the better preservation of the Peace, and shall have the powers a 1&2W.4,c.41. immunities and be liable to the duties and penalties enacted by said last-mentioned act; and every person so appointed a special co special consta- stable shall receive, out of the borough fund, for every day duri which he shall be called out to act as such, the sum of three shilling and sixpence, and no more.

LXXXIV. That as soon as constables shall have been appointed appointment of the watch committee for any borough, a notice, signed by the mayor constables, the such borough, specifying the day on which such constables shall be to act, shall be fixed on the door of the town hall and every chur within such borough; and on the day so specified in such notice much of all acts named in conjunction with such borough in the Scl dule (E.) to this act annexed, and of all acts made before the passing this act, as relates to the appointment, regulation, powers, and duti or to the assessment or collection of any rate to provide for the pences of any watchmen, constables, patrol, or police for any pla situated within such borough, shall cease and determine; and watch-houses and watch-boxes in any such place, and all arms, acco arms, &c. to be trements, and other necessaries provided at the public expence for a watchmen, constables, patrol, or police therein, shall be given up such persons as shall be named by the said mayor in such notice, 1 the use and accommodation of the constables to be appointed under the act, and all the property so to be given up shall be deemed to belong the body corporate of such borough; and in case any person having t Penalty for not charge, control, or possession of any watch-house, watch-box, arm giving them up. accoutrements, or necessaries as aforesaid shall neglect or refuse give up the same as herein-before required, every such offender, bear convicted thereof before any two justices of the peace, shall for eve such offence forfeit and pay, over and above the value of the proper not given up, such sum not exceeding five pounds as the said justic shall think meet; and where there shall be any building in any su place as aforesaid a part only of which building shall have been here! fore used as a watch-house, such part shall be given up every day, fro the hour of four in the afternoon until the hour of nine in the forenoon for the use and accommodation of the constables to be appointed und this act; and if any person having the charge, control, or possession any such building shall neglect or refuse to give up such part there for the purposes aforesaid, or to permit free access thereto or egre therefrom during any portion of the time above prescribed, every su offender, being convicted thereof before any two justices of the pear shall for every such offence forfeit and pay such sum not exceeding fi pounds as the said justices shall think meet: Provided nevertheles that in every case in which before the passing of this act a rate mig be levied in any borough for the purpose of watching, conjointly wi any other purpose, nothing in this act contained shall be construed prevent the levying and collecting of such rate for such other purpo solely, or to repeal the powers given in any act so far as the same rela to such other purpose: Provided always, that where the amount of such rate before the passing of this act might not exceed a given rate in t pound on the value of property rateable thereunto, the rate so to levied for such other purpose solely shall not exceed such proportion the said given rate in the pound as shall appear to have been expende for such purpose other than watching by an account of the average yearly expenditure during the last seven years, or where such rate shi not have been levied during seven years, then during such less numb of years as such rate shall have been levied.

LXXXV. Provided always, That any rate for defraying the expende Proviso as to rates in arrear, of any watchmen, constables, patrol, or police in any such place and as to debts. aforesaid, made previously to the day specified in such notice as afor

id, shall be levied and collected in the same manner as if this act had # been passed: Provided also, that nothing herein contained shall 5 & 6 W. 4, ment the levying and collecting of any rate in any such place as resaid for the purpose of paying any debt contracted before the using of this act, or the interest of any such debt, but that such rate and may be levied and collected in the same manner as if this act not been passed.

No. V. c. 76.

LXXXVI. That the watch committee of every such borough shall, on Watch comburst day of January, the first day of April, the first day of July, and mittee to transis first day of October in every year, transmit to one of his Majesty's mit a report acipal secretaries of state a report of the number of men appointed to quarterly to the as constables or policemen in such borough, and of the description state, and also twos, accountrements, and clothing, and other necessaries furnished a copy of their each man, and of the salaries, wages, and allowances payable to such rules, &c. metables or policemen, and of the number and situation of all station icutes in such borough; and also a copy of all rules, orders, and reguwhich shall from time to time be made by such watch committee

* by the council of such borough for the regulation and guidance of ach constables or policemen.

LXXXVII. And whereas parts of certain boroughs are within the Power for Rovisions of one or more local act or acts for regulating the lighting council to order reof, and certain other parts of the same boroughs are not within the parts of a bo-Avisions of any local act for regulating the lighting thereof, and for rough not withof such lighting the efficiency of the constables may be much as to lighting to amushed, and great facilities afforded for the commission of crimes be included in ad for the escape of offenders; for remedy thereof be it enacted, That such act. ishall be lawful for the council of any borough in any part of which there is a local act for the lighting thereof to make an order that any part of such borough not being within the provisions of any local act the lighting thereof shall, from and after a certain day to be named a such order, be taken to be within the provisions of such local act or ets for lighting any part of such borough as the common council shall secify in such order; and after such day the part named in such order be within the provisions of the act or acts so specified, so far as relates to lighting, or to any rates authorized to be levied for the purmee of lighting, as fully as if such part had been originally named in such act or acts, any thing in such act or acts to the contrary notwithstanding: Provided always, that every part named in such order shall Proviso as to be lighted in the like manner as those parts which before the making amount of rate such order were within the provisions of such local act, and that the for lighting. tate to be raised for the purpose of defraying the expences of lighting my part so named in such order shall not exceed the average expence

in the pound of the lighting of the other parts of such borough. LXXXVIII. That if the council of any borough chosen under this Council may shall, by public notice to be affixed on the outer door of the town assume the or in some public place within the borough, declare that on a powers of intertain day, to be named in such notice, not less than twenty-one days spectors under will take upon themselves the powers given to the inspectors named in ing any part of a certain act made in the third and fourth year of his present Majesty, the borough not intituled. intituled An Act to repeal an Act of his late Majesty King George the within a local Fourth, for the lighting and watching of Parishes in England and Wales, act for lightand to make other Provisions in lieu thereof, so far as the same relates to ing the same. the lighting the whole or any part of any borough which is not within the provisions of any local act, or in which there is no power of levying rates for lighting the same, the council of such borough shall, after the day named in such notice, have the same powers and duties as belong to inspectors under the said last-recited act in regard to lighting, and to levying rates for the purpose of lighting such part of the borough, except so far as the same are contrary to or inconsistent with the provisions of this act; and in such case the council shall have the sole power to fix and determine the amount of money which they will call

for in any one year for the purpose of lighting such part of the boroug 5 & 6 W.4, so that such sum shall not exceed the rate of sixpence in the pound. the full and fair annual value of all property rateable to the relief of 1 poor within such part of the borough: Provided also, That it shall 1 be lawful in such case for the inhabitants of such part of the borou at any time to determine that the provisions of the said recited act sh cease to be acted upon.

Act not to inregulations for the govern. ment &c. of senals, &c.

LXXXIX. Provided always, That nothing herein contained shall terfere with the construed to interfere with the watching, paving, or lighting, a internal regulations established for the government and security of a of his Majesty's dockyards, victualling establishments, arsenals, a barracks respectively; nor shall any of the tenements within the se dockyards, ar- dockyards, victualling establishments, arsenals, or barracks, or t inhabitants of the same, be liable to be assessed to the rates 1 watching, paving, or lighting the other parts of the city, borough, parish within which the same may be respectively situated, unless such tenements or the inhabitants thereof are now or may hereafter become liable to be assessed to any such rates made under or by virtue of an law or statute now in force; nor shall any thing herein contained exter to defeat or affect the authority of justices of the peace which by an a passed in the second year of his present Majesty's reign, intituled Act to amend the Laws relating to the Business of the Civil Departmen of the Navy, and to make other Regulations for more effectually carryet on the Duties of the said Departments, is vested in the commissioners for executing the office of lord high admiral of the United Kingdom, an in the superintendents of the several dockyards and other naval an victualling establishments, in all places and in all matters relating t his Majesty's naval service, and to the stores, provisions, ammunition and accounts thereof.

Council to have power to make

bye-laws.

2 & 3 W. 4,

c. 40.

XC. That it shall be lawful for the council of any borough to make such bye-laws as to them shall seem meet for the good rule an government of the borough, and for prevention and suppression of a such nuisances as are not already punishable in a summary manner b virtue of any act in force throughout such borough, and to appoint b such bye-laws such fines as they shall deem necessary for the preven tion and suppression of such offences; Provided that no fine so to t appointed shall exceed the sum of five pounds, and that no such by law shall be made unless at least two thirds of the whole number of the council shall be present: Provided that no such bye-law shall be of an force until the expiration of forty days after the same or a copy there shall have been sent, sealed with the seal of the said borough, to one his Majesty's principal secretaries of state, and shall have been affixe on the outer door of the town hall or in some other public place within such borough; and if at any time within the said period of forty day his Majesty, with the advice of his privy council, shall disallow th same bye-law or any part thereof, such bye-law or the part thereof disallowed shall not come into operation: Provided also, That it shall be lawful for his Majesty, if he shall think fit, at any time within th said period of forty days, to enlarge the time within which such by law, if disallowed, shall not come into force; and no such bye-law shall in that case come into force until after the expiration of such enlarge time.

As to breaches of bye-laws.

XCI. That all the provisions herein-after contained relative to offence against this act punishable upon summary conviction shall be taken t apply to all offences committed in breach of any bye-law or regulation made by virtue of this act.

All corporate property and all fines received to be carried to the account fund

XCII. That after the election of the treasurer in any borough th rents and profits of all hereditaments, and the interest, dividends, and annual proceeds of all monies, dues, chattels, and valuable securitie belonging or payable to any body corporate named in conjunction with of the borough the said borough in the said schedules (A.) and (B.), or to any member or officer thereof in his corporate capacity, and every fine or penalty fo

spossence against this act (the application of which has not been hady provided for), shall be paid to the treasurer of such borough; 5 & 6 W. 4, al all the monies which he shall so receive shall be carried by him to execunt of a fund to be called "The Borough Fund;" and such subject to the payment of any lawful debt due from such body Payment of sporate to any person, which shall have been contracted before the debts, &c. salaming of this act, and unredeemed, or of so much thereof as the coun-ries of recorder, la such borough from time to time shall be required or shall deem town clerk, empedient to redeem, and to the payment from time to time of the treasurer, and threst of so much thereof as shall remain unredeemed, and saving all other officers, the, interests, claims, or demands of all persons or bodies corporate expences to be ter upon the real or personal estate of any body corporate by virtue paid out of my proceedings either at law or in equity which have been already such fund. extuted or which may be hereafter instituted, or by virtue of any riginge or otherwise, shall be applied towards the payment of the by of the mayor, and of the recorder and of the police magistrate son-after mentioned when there is a recorder or police magistrate, with the respective salaries of the town clerk and treasurer, and of my other officer whom the council shall appoint, and also toward the ment of the expences incurred from time to time in preparing and burgess lists, ward lists, and notices, and in other matters kinding such elections as are herein mentioned, and, in boroughs shall have a separate court of sessions of the peace as is hereinprovided, towards the expences of the prosecution, maintenance, upunishment of offenders, and towards such other sum to be paid by th borough to the treasurer of such county as is herein-after provided, wards the expence of maintaining the borough gaol, house of corrain, and corporate buildings, and towards the payment of the conand of all other expences not herein otherwise provided for shall be necessarily incurred in carrying into effect the provisions this act; and in case the borough fund shall be more than sufficient Application of "the purposes aforesaid, the surplus thereof shall be applied, under surplus. direction of the council, for the public benefit of the inhabitants and Provement of the borough; Provided that it shall not be lawful for bouncil to be elected under the provisions of this act, in any borough which the body corporate named in conjunction with the said rough in the said schedules (A.) and (B.), before the time of the ing of this act shall have contracted any lawful debt chargeable on " tolls or dues belonging or payable to the said body corporate, or to member or officer thereof in his corporate capacity, or towards the defaction whereof such tolls or dues or any part thereof were applibefore the passing of this act, to alter or reduce the amount to be med and payable of such tolls or dues, or to grant for any consideraon any remission of or exemption from such tolls or dues or any part kreof, unless with the consent in writing under the hands of a ajority in number and amount of the creditors to whom such debt is until after such debt and all arrears of interest due thereon shall tre been fully paid and satisfied; and in case the borough fund shall If the fund be w be sufficient for the purposes aforesaid, the council of the borough insufficient, the bereby authorized and required from time to time to estimate, as cor-council shall xtly as may be, what amount, in addition to such fund, will be suffi- order a rate to ent for the payment of the expences to be incurred in carrying into make up the lect the provisions of this act; and in order to raise the amount so deficiency. timated the said council is hereby authorized and required from time time to order a borough rate in the nature of a county rate to be ade within their borough, and for that purpose the council of such grough shall have within their borough all the powers which any jusof the peace assembled at their general or quarter sessions in any ounty in England have within the limits of their commission by virtue an act made in the fifty-fifth year of his late Majesty king George the urd, intituled An Act to amend an Act of his late Majesty King George 55 G. 3, c. 51. & Second, for the more easy assessing, collecting, and levying of County

No. V.

Rates, or as near thereto as the nature of the case will admit, except 5 & 6 W. 4, is herein-after excepted; and all warrants required by the said act to issued under the hands and seals of two or more justices shall in l case be signed by the mayor, and sealed with the seal of the borous provided that such council shall not be empowered to receive, hear, determine any appeal against any such rate; and if any person sl think himself aggrieved by any such rate it shall be lawful for him appeal to the recorder herein-after mentioned at the next qual sessions for the borough in which such rate has been made, or case there shall be no recorder within such borough, to the justi at the next court of quarter sessions for the county within wh such borough is situate or whereunto it is adjacent; and such corder or justices respectively shall have power to hear and determ the same, and to award relief in the premises, as in the case of appeal against any county rate; and all such sums levied in pur ance of such borough rate shall be paid over to the account of borough fund, and, subject to the provisions herein-before contain shall be applied to all purposes to which before the passing of the act a borough rate or county rate was by law applicable in su borough or county: Provided that in every case in which before passing this act any rate might be levied in any borough, or in a parish or place made part of any borough under the provisions of the act, for the purpose of watching solely by day or by night, or for t purpose of watching by day or by night conjointly with any other pt pose, it shall be lawful for the council of such borough to levy a wat rate sufficient to raise any sum not greater than the average yearly st which during the last seven years, or where such rate shall not ha been levied during seven years then during such less number of yes as such rate shall have been levied, shall have been expended in t maintenance and establishment of watchmen, constables, patrole, policemen within the district in which such rate was levied, and that purpose the council shall have all the powers herein before giv to the council in the matter of the borough rate; and where any p of any borough shall not at the time of the passing of this act within the provisions of the act authorizing the levy of such rate watching as aforesaid it shall be lawful for the council from time time to order that such part, or so much thereof as to the council sh seem fit, shall be rated to the watch rate in like manner as other par of the borough to be specified in such order, and such watch rate the upon shall be levied within the part mentioned in such order in li manner as in the other parts of the borough so specified, and all su sums levied in pursuance of such watch rate shall be paid over to t account of the borough fund: Provided always, That no such order last aforesaid shall be made for rating to such watch rate any part any borough in which at the time of passing this act such rate as afol said shall not be levied, and which is more than two hundred yar distant from any street or continuous line of houses which shall regularly watched within the borough under the provisions of this at Provided also, That nothing in this act contained shall be construed render liable to the payment of any debt contracted before the passi of this act by any body corporate any part of the real or personal esta of the said body corporate which before the passing of this act was I liable thereto, or to authorize the levy of any rate within any part of a borough for the purpose of paying any debt contracted before the pas ing of this act which before the passing of this act could not lawfully levied therein towards the payment of the same.

Accounts of rebursements to be kept, audited, and published.

XCIII. That the treasurer of every borough shall, in books to ceipts and dis- kept for that purpose, enter true accounts of all sums of money by hi received and paid, and of the several matters for which such sums shi have been received and paid; and the books containing the account shall at all seasonable times be open to the inspection of any of the aldermen or councillors of such borough; and all the accounts, with

where and papers relating thereto, shall, in the months of March and pumber in every year, be submitted by the treasurer of the borough the auditors herein-before provided to be elected, and to such member the council as the mayor shall name on the first day of March in my year, or in case of extraordinary vacancy within ten days next her such vacancy, for the purpose of being examined and audited, on the first day of September in the year preceding to first day of hich, and from the first day of March to the first day of September in is year in which the said auditors were elected and named, and if the mi accounts shall be found to be correct, the auditors shall sign the and after such accounts shall have been so examined and audited the month of September in every year, the treasurer shall make out writing, and shall cause to be printed, a full abstract of his accounts The year, and a copy thereof shall be open to the inspection of all rate-payers of such borough, and copies thereof shall be delivered rate-payers of such borough applying for the same, on payment

No. V. 5 & 6 W. 4, c. 76.

11 reasonable price for each copy.

ICIV. That it shall not be lawful for the council of any body corpo- Power of sale to be elected under this act to sell, mortgage, or alienate the lands, and leasing retements, or hereditaments of the said body corporate, or any part strained. ereof, except in pursuance of some covenant, contract, or agreement has fide made or entered into on or before the fifth day of June in this resent year, by or on behalf of the body corporate of any borough, or some resolution duly entered in the corporation books of such body imporate on or before the said fifth day of June, or to demise or lease, acept in pursuance of some covenant, contract, or agreement bond fide hade or entered into on or before the said fifth day of June by or on behalf of such body corporate, or in pursuance of some resolutions entered in the corporation books of such body corporate on or before the said fifth day of June, or except in the cases herein-after lentioned, any lands, tenements, or hereditaments of such body corprate, or any part thereof, or to enter into any new covenant, contract, * agreement (except in the cases herein-after mentioned) for demising a leasing any such lands, tenements, or hereditaments, or any part bereof, for any term exceeding thirty-one years from the time when ach lease shall be made, or if made in pursuance of a previous agreeent, then from the time when such agreement shall have been entered and in every lease which the said council is not hereby restrained making there shall (except in the cases herein-after mentioned) be reserved and made payable during the whole of the term thereby granted the clear yearly rent as to the council shall appear reasonable, without thing any fine for the same: Provided nevertheless, that in every case which such council shall deem it expedient to sell and alienate or to demise and lease for a longer term than thirty-one years, or upon difterms and conditions than those herein-before mentioned, any of be said lands, tenements, or hereditaments, it shall be lawful for such ouncil to represent the circumstances of the case to the lords commisnoners of his Majesty's treasury; and it shall be lawful for such counwith the approbation of the said lords commissioners or any three them, to sell, alienate, and demise any of the lands, tenements, and bereditaments of the said body corporate in such manner and on such and conditions as shall have been approved by the said lords commissioners: Provided always, that notice of the intention of the ouncil to make such application as aforesaid shall be fixed on the outer door of the town hall, or in some public and conspicuous place within the borough, one calendar month at least before such application; and a copy of the memorial intended to be sent to the said lords commissioners shall be kept in the town clerk's office during such calendar month, and shall be freely open to the inspection of every burgess at all rasonable hours during the same.

XCV. Provided always, That in all cases in which any body corpo- The council of rate shall on the fifth day of June in this present year have been bound any borough

No. V. c. 76. under this act authorized to renew leases. àc.

or engaged by any covenant or agreement, express or implied, or ha 5 & 6 W. 4, been enjoined by any deed, will, or other document, or have been sa tioned or warranted by ancient usage or by custom or practice, to ma any renewal of any lease for years, or for life or lives, or for years det minable with any life or lives at any fixed or determinate or known accustomed period, or after the lapse of any number of years, or on dropping of any life or lives, and years determinable after the lapse any number of years, at a fine certain, or under any special or spec terms or conditions, and also in all cases in which any body corpor shall theretofore have ordinarily made renewal of any lease for years, for life or lives, or for years determinable with any life or lives at a fixed or determinate or known or accustomed period, or after the lat of any number of years, or upon the dropping of any life or lives, up the payment of an arbitrary fine, it shall be lawful for the council such borough to renew such lease for such term or number of year either absolutely or determinable with any life or lives, or for such 1 or lives, and at such rent, and upon the payment of such fine or p mium, either certain or arbitrary, and with or without any covenant the future renewal thereof, as such body corporate could or might ha done in case this act had not been passed.

Leases of certain buildings, and of ground or for making gardens, &c., may be made for seventyfive years.

XCVI. Provided nevertheless, That in any of the instances herei after mentioned it shall be lawful for the council from time to time demise and lease, or to enter into any contract or agreement for building on, demising and leasing, any of the said lands, tenements, or heredit ments, to any person, body politic, corporate, or collegiate, for any ter not exceeding seventy-five years from the time of making such lease agreement; (that is to say,) of tenements or hereditaments the great part of the yearly value of which shall at the time of making the lea or agreement consist of any building or buildings, of land or groun proper for the erection of any houses or other buildings thereupon, wi or without gardens, yards, curtilages, or other appurtenances to be use therewith, and, where the lessee or intended lessee shall covenant agree to erect a building or buildings thereon of greater yearly value than such land or ground, of land or ground proper for gardens, yard curtilages, or other appurtenances to be used with any other house other building erected or to be erected on any such ground, belongir either to such body corporate or to any other proprietor, or proper fe any other purpose calculated to afford convenience or accommodation the occupiers of any such house or building.

Collusive purchases, sales, corporate profor undue consideration, may be set aside.

XCVII. That it shall be lawful for the council first to be elected any borough under the provisions of this act to call in question a and demises of purchases, sales, leases, and demises not made in pursuance of son such bond fide covenant, contract, agreement, or resolution made perty since the entered into as aforesaid before the said fifth day of June, and all col 5th June 1835, tracts for the purchase, sale, lease, or demise of any lands, tenement and hereditaments, and all divisions and appropriations of the monie goods, and valuable securities, or any part of the real or person estate, of which on or before the fifth day of June in this present yes the body corporate of which they are the council, whether in their ow right or as trustees for charitable or other purposes, was seised (possessed, which shall have been made or contracted between the sai fifth day of June and the day of the declaration of their election; an for that purpose, if it shall appear to the said council that there i ground for believing that any such purchase, sale, lease, or demise, or such contract, or such division or appropriation of the premises, wa collusively made for no consideration, or for an inadequate consider ation, it shall be lawful for the council of such borough, at any tim within six calendar months next after the first election of councillor under this act shall have been declared in such borough, upon notic of their intention being first given in the London Gazette, and also affixed on the outer door of the town hall or in some public place within the borough, to cause the value of the lands, tenements, hereditaments

premises in question to be inquired of and found by a jury of he indifferent men of the county in which, or adjoining to which in 5 & 6 W 4, case of Berwick-upon-Tweed, and of all counties of cities and towns prate, such lands, tenements, hereditaments, or premises do lie; in order thereto the said council is empowered to summon and call se such jury all persons having the custody and possession of any d or agreement concerning the said lands, tenements, hereditaments, premises made or entered into since the said fifth day of June, and ause all such deeds and agreements to be produced before the said s, and examined by them, and to examine upon oath every person shall be thought necessary to be examined (which oath the mayor is reby empowered to administer); and the council shall, by ordering a wor otherwise, use all lawful means for the information as well of mselves as of the said jury in the premises; and the jury shall find t value of the said lands, tenements, hereditaments, and premises, the consideration which shall have been given, and also that which th of right to have been given, for the purchase, sale, lease, demise, appropriation thereof, according to the terms of such purchase, sale, **w**, demise, contract, or appropriation, and taking into account all the rumstances under which the same shall have taken place; and if the ly by their oaths shall find that no consideration, or a consideration * than that which they shall have so found to be the value which wit therefore to have been given, shall have been collusively given contracted to be given by the terms of any such purchase, sale, lease, mise, contract, or appropriation, the party to such purchase, sale, a, demise, contract, or appropriation shall have his option either to two vey and restore the lands, tenements, hereditaments, and premises iquestion, and to abandon the contract to which he shall have been my, upon receipt in each case of the consideration, if any, which he have given for the same, or to give therefore in each case such ditional consideration so that the whole consideration given shall be but which ought of right to have been given, so found by the jury as mesaid; and in every such case as last aforesaid the additional conultration given or to be given shall be endorsed on the original deed tonveyance; and unless he shall so do within one calendar month kat after the finding of the jury every such purchase, sale, lease, emise, contract, and conveyance shall be absolutely void and of none met, as against the said body corporate and their successors; and revery case in which any such contract shall have been abandoned atoresaid, or in which any such purchase, sale, lease, demise, intract, or conveyance, shall become void and of none effect; tader the provisions of this act, the party who would otherwise have the benefit of the same shall be remitted to his former estate, ate, and interest (if any) in the premises as if no such contract, Archase, sale, lease, or demise had been made or entered into; and for mmoning and returning such juries, and for imposing fines on the heriff, his deputy, bailiff, or agent, and on the persons summoned and returned on the said jury, and on any person required to give evidence, the shall in this behalf contravene the provisions of this act, the bouncil of every such borough shall have all the powers given in that behalf to the trustees or commissioners of any turnpike road by an act made in the third year of his late Majesty George the Third, intituled In Act to amend the General Laws now in being for regulating Turnpike 3 G. 4, c. 126. hads in that part of Great Britain called England; and all the costs of the said jury, and of all witnesses tendered by the said council to be tramined before the said jury, shall in every case be borne by the council, and paid out of the borough fund: Provided nevertheless, That I shall be lawful for his Majesty, if he shall think fit, by the advice of his privy council, upon petition to him setting forth the special circumstances under which any purchase, sale, lease, demise, contract, or Ppropriation of any of the said lands, tenements, hereditaments, and Premises shall have been made since the said fifth day of June, to order

No. V. c. 76.

No. V. 5 & 6 W. 4, c. 76.

that the same shall not be called in question under the provisions this act; and in such case as last aforesaid the same shall not be call in question or set aside or affected under the provisions of this a Provided always, That in every case in which such petition shall ha been presented it shall be lawful for his Majesty, if he shall think fit, enlarge the time within which (in case his Majesty shall not think fit make such order as aforesaid) the council may have power as aforesa to call in question any purchase, sale, lease, demise, contract, or appr priation referred to in such petition.

His Majesty's commission may be issued

XCVIII. That it shall be lawful for his Majesty from time to tir to assign to so many persons as he shall think proper his Majesty commission to act as justices of the peace in and for each borough, as for certain per- in and for each of the counties of cities and towns respectively name sons to act as in the said schedule (A.), and in and for such of the boroughs in t justices in any of said schedule (B.) to which his Majesty may be pleased upon the pe such boroughs. tion of the council thereof to grant a commission of the peace: Provide nevertheless, That every person so to be assigned shall reside within t borough for which he shall be so assigned, or within seven miles of such borough, or of some part thereof, during such time as he shall act as justice of the peace in and for such borough.

Councils may on which the justices.

XCIX. That if the council of any borough shall think it requisi make bye-laws, that a salaried police magistrate or magistrates be appointed within suc borough, such council is hereby empowered to make a bye-law fixing crown may ap- the amount of the salary which he or they are to receive in that behalf point salaried. and such bye-law so made by any council as aforesaid shall be tranmitted to one of his Majesty's principal secretaries of state, and it sha be lawful thereupon for his Majesty, if he shall think fit, to appoint on or more fit persons, according to the number fixed in the said bye-lav (being barristers at law of not less than five years standing), to b during his Majesty's pleasure police magistrate or magistrates and justice or justices of the peace for such borough, and to direct that suc sum shall be paid quarterly out of the borough fund of such borough a will be sufficient to pay such yearly salary to each of the justices s assigned as last aforesaid, not exceeding in the whole the salary men tioned in the prayer of such petition, clear of all fees or deductions, a to his Majesty shall seem fit; and the treasurer of such borough shall thereupon pay to each justice so assigned as last aforesaid, out of th borough fund of such borough, the salary so directed to be paid, b four equal quarterly payments, and in the same proportion up to th time of the death of such justice or his ceasing to act under such assignment as aforesaid: Provided that in every case of vacancy of th office of police magistrate in any borough aforesaid no new ap pointment of police magistrate in such borough shall be made unti the council shall again make application to one of his Majesty's principa secretaries of state in that behalf, and as in the case of the first appoint ment of a police magistrate in such borough.

Council to provide a police office.

C. That the council of every borough to which a separate commis sion of the peace shall be granted under the provisions of this act shall be authorized and required to provide and furnish one or more fit and suitable office or offices, to be called "The Police Office" or "Offices' of the borough, for the purpose of transacting the business of the justices of such borough, and to pay from time to time out of the borough fund such sums as may be necessary for providing, upholding, and furnishing, and for the necessary expences of such police office or offices provided that no room in any house licensed as a victualling house of alehouse shall be used for the purposes of any such police office.

Justices need by estate.

CI. That every person assigned to keep the peace within any borough not be qualified under the provisions of this act, or any of them, shall, during the continuance of such assignment, execute the duties of a justice of the peace in and for the borough for which he shall have been so assigned, although he may not have such qualification by estate as is required by law in the case of other persons being justices of the peace for a county,

No. V.

c. 76.

wided that such person be not disqualified by law to act as a justice be peace for any other cause or upon any other account than in 5 & 6 W. 4, pect of estate, and although such person may not be a burgess of the migh in and for which he shall have been assigned to act as a justice of :; and that every summons for the appearance of any person, or mut to compel such appearance, or warrant for the apprehension of person charged with any offence, or search warrant, issued by any according to any for any borough in any matter within i jurisdiction, may be respectively served and executed within any my in which the said borough shall be situated, or within any Ence not exceeding seven miles from such borough, and within such as aforesaid shall have the same force and effect as if the same d been originally issued or subsequently indorsed by a justice of the the having jurisdiction in the place where the same shall be served or muted, any law, statute, charter, or usage to the contrary notwithting; and every such summons and warrant shall and may be stally served or executed within such limits as aforesaid by the estable or special constable to whom the same shall be directed: Pro- Such justices ded nevertheless, That no such person, by virtue of such assignment, not to sit in act as a justice of the peace at any court of gaol delivery or general courts of gaol quarter sessions, or in making or levying any county rate, or rate in delivery, &c. t nature of a county rate.

II. That it shall be lawful for the justices of every borough to which Justices to ap-*parate commission of the peace shall be granted as aforesaid, at point a clerk, first or any other meeting, and they are hereby respectively re- who shall not and to appoint a fit person to be the clerk to the justices of such be clerk of the rough, to be removable at their pleasure, and so as often as there peace, or an be a vacancy in the said office of clerk to the justices by death, alderman or councillor, nor signation, removal, or otherwise; provided that it shall not be lawful be concerned in the said justices to appoint or continue as such clerk to the justices the prosecution ralderman or councillor of such borough, or clerk of the peace of of offenders borough, or the partner of such clerk of the peace, or any clerk or committed by mon in the employ of such clerk of the peace: Provided also, That it the borough not be lawful for the said clerk to the justices, by himself or his justices. ather, to be directly or indirectly interested or employed in the prosetion of any offender committed for trial by the justices of whom he be such clerk as aforesaid, or any of them, at any court of gaol clivery or general or quarter sessions; and any person being an alderor councillor, or clerk of the peace of any borough, or the partner clerk or in the employ of such clerk of the peace, who shall act as to the justices of such borough, or shall otherwise offend in the remises, shall for every such offence forfeit and pay the sum of one indred pounds, one moiety thereof to the treasurer of such borough, be paid over to the credit and account of the borough fund of such Mough, and the other moiety thereof, with full costs of suit, to any emon who will sue for the same in any of his Majesty's courts of

cord at Westminster. CIII. That the council of every borough which shall be desirous that His Majesty eparate court of quarter sessions of the peace shall be or continue to may grant a * holden in and for such borough shall signify the same by petition to separate court Majesty in council, setting forth the grounds of the application, the of quarter sestate of the gaol, and the salary which they are willing to pay to the sions, and apbcorder in that behalf; and it shall be lawful for his Majesty, if he point a rebe pleased thereupon to grant that a separate court of quarter corder in cerof the peace shall be thenceforward holden in and for such tain boroughs. brough, to appoint for such borough, or for any two or more of such broughs conjointly, a fit person, being a barrister at law of not less five years standing, who shall be and be called the recorder of borough or boroughs, and shall hold such office during his good thaviour, and upon any vacancy in any such office to appoint another person, being a harrister at law of not less than five years standing, be the recorder in the place of the person so making such vacancy;

No. V. peace for the

borough;

ber of parliament for the borough, alderman, councillor or police magistrate.

2 W. 4, c. 45.

Recorder and fore acting.

and the council of every such borough shall appoint a fit person to be 5 & 6 W. 4, clerk of the peace during his good behaviour; and the recorder for the time being of any borough shall be a justice of the peace of and for such borough, although he may not have such qualification by estate as Recorder to be is required by law in the case of any other person being a justice of the a justice of the peace for a county; and such recorder shall have precedence in all places within the borough of which he may be the recorder next after the mayor thereof; and in such case it shall be lawful for his Majesty to direct that an annual salary, not exceeding the sum stated in the petition of the council, shall be paid to such recorder, by the treasurer but not a mem- of such borough out of the borough fund: Provided always, That no person being such recorder as aforesaid shall be eligible to serve in parliament for such borough, nor shall he be an alderman, councillor, or police magistrate of such borough: Provided nevertheless, That nothing in this act contained shall be construed to disqualify any such recorder from being appointed a barrister to revise any list of voters under the provisions of an act passed in the second year of his Majesty, intituled An Act to amend the Representation of the People in England and Wales, or from being eligible to serve in parliament, otherwise than is herein-before provided: Provided also, That in every borough in and for which a separate court of general or quarter sessions of the peace is now holden, and of which the present recorder or deputy recorder is a barrister of five years standing, such recorder or deputy recorder, being qualified as aforesaid, shall be continued or appointed recorder under the provisions of this act: Provided also, That in the case of sickness or unavoidable absence, the recorder of any borough shall be empowered, under his hand and seal, with the consent of the council of such borough, to appoint a deputy recorder, being a barrister of five years standing, to act for him at the quarter sessions of the peace then next ensuing, and no longer or otherwise.

CIV. Provided nevertheless, That no recorder or person assigned to justices to make keep the peace within any such borough shall be capable of acting as declaration be- recorder or justice of the peace within such borough until he shall have taken the oaths provided to be taken by justices of the peace, except the oath as to qualification by estate, and until he shall have made before the mayor or before any two or more of the aldermen or councillors of such borough (who is and are hereby authorized and required to administer the same) a declaration in the following form; that is to say,)

> ' I A. B. do hereby declare, That I will faithfully and impartially 'execute the office of recorder [or justice of the peace] for the according to the best of my judgment and ' borough of 'ability.'

Sessions of the recorder to be the sole judge.

CV. That the recorder of every borough shall hold once in every peace to be held quarter of a year, or at such other and more frequent times as the said for the borough recorder in his discretion may think fit, or as his Majesty shall think fit of which the to direct, a court of quarter sessions of the peace in and for such borough, of which court the recorder of such borough shall sit as the sole judge; and such court of quarter sessions of the peace shall be a court of record, and shall have cognizance of all crimes, offences, and matters whatsoever cognizable by any court of quarter sessions of the peace for counties in England, and the said recorder shall have power to do all things necessary for exercising such jurisdiction, notwithstanding his being such sole judge, as fully as any such last-mentioned court: Provided nevertheless, That no recorder, by virtue of his office, to make or levy shall have power to make or levy any county rate, or rate in the nature county rate, &c. of a county rate, or to grant any licence or authority to any person to keep an inn, alehouse, or victualling house, to sell exciseable liquors by retail, or to exercise any of the powers herein specially vested in the council of such borough

Recorder not

CVI. That in the absence of the recorder and deputy recorder the mayor shall be authorized and required, at the proper times appointed 5 & 6 W. 4, for the holding of such court of quarter sessions of the peace in and for such borough, to open the said court, and to adjourn over the holding of the same, and to respite all recognizances conditioned for appearing Mayor, in the at the same, until such further day as such mayor then and there, and absence of the so from time to time, shall cause to be proclaimed: Provided neverthe-recorder and less, that nothing in this act contained shall authorize or require any deputy record-such mayor to sit as a judge of the said court for the trial of offenders, er, may open or to do any other act in the character of a judge of such court, save and adjourn the or to do any other act in the character of a judge of such court, save court. only in opening and adjourning the same, and respiting the said recognizances in manner aforesaid.

CVII. That after the first day of May one thousand eight hundred Capital jurisand thirty-six all powers and jurisdictions to try treasons, capital felo-dictions, and all nies, and all other criminal jurisdictions whatsoever granted or con-other criminal firmed by any law, statute, letters patent, grant, or charter whatsoever, jurisdictions in to any mayor, bailiff, alderman, recorder, or other corporate or chartered boroughs, other tered officer, or corporate or chartered justice of the peace whomsoever, than are specing any borough, and all right of any body corporate in any borough, or field in this act, in any borough, and all right of any body corporate in any borough, or abolished. any of the members thereof, by virtue of any law, statute, letters patent, grant, or charter whatsoever, to elect or nominate any justices to keep the peace in or for any borough, or by any members of any such corporate body to act as such justices of the peace in or for any of the lastnamed boroughs other than is herein declared, shall cease: Provided nevertheless, that nothing in this act contained shall be construed to restrain or prevent the holding of any court of gaol delivery or general or quarter sessions of the peace in and for any borough for which such court may now be holden, until the said first day of May, but every such court may be holden in like manner, and with the same powers, until the said first day of May, as if this act had not been passed.

CVIII. That from and after the passing of this act so much of all Chartered adlaws, statutes, and usages, and so much of all royal and other charters, miralty jurisgrants, and letters patent heretofore granted to any borough or body dictions abocorporate, whereby such borough, or any place within the precincts or lished. liberties of the same, or such body corporate, or the freemen or inhabitants of the same, claims or claim to be exempted and released from the jurisdiction and office of the lord high admiral of England, or of the high court of the admiralty of England, or whereby any body corporate, or any mayor, bailiff, recorder, steward, or other chartered or corporate officer of any borough has or claims any thing belonging to the office of admiral, whether or not to be exercised by virtue of any commission to them or any of them to be directed, shall be and the same is hereby repealed: Provided nevertheless, that nothing in this act contained shall extend to alter or affect the jurisdiction and office of the lord warden in his office of admiral of the cinque ports: Provided also, that all suits and matters wherein before the passing of this act the rights of any salvors, or any droits or perquisites to the office of admiral belonging, were drawn into question, may be continued, heard, determined, and adjudicated upon in like manner as if this act had not passed

CIX. And whereas an act was passed in the thirty-eighth year of his Certain exceplate Majesty George the Third, intituled An Act to regulate the Trial of tions in 38 G.3, Causes, Indictments, and other Proceedings which arise within the Counties c. 52, repealed. of certain Cities and Towns Corporate within this Kingdom, but certain cities and counties of cities were excepted out of the operation of the same: and whereas it is expedient to repeal in part the said exceptions; be it therefore enacted, That so much of the last-recited act as provides that nothing therein contained shall extend or be construed to extend to the city or county of the city of Bristol, or the city or county of the city of Chester, or to the criminal jurisdiction of the city of Exeter and county of the same city, shall be and the same is hereby repealed; and Berwick-uponthat the town of Berwick-upon-Tweed shall be taken to be a county of Tweed to be a a town corporate, and to be within all the provisions of the last-recited town.

No. V. c, 76.

rate.

No. V. As to trial of offences comtowns corpo-

Offenders committed to borough sessions tion is taken in the adjoining county.

act; and that after the first day of May in the year one thousand eigh 5 & 6 W. 4, hundred and thirty-six, and until his Majesty shall be pleased to direc a commission of over and terminer and gaol delivery to be executed within any county of a city or town corporate, all bills of indictment fo offences committed within such county of a city or town corporate shall be preferred and all proceedings upon such indictments shall be had a mitted in coun- in the last-recited act is authorized to be done, and the counties of the tles of cities and cities and towns corporate named in the first column of the Schedule (C.) to this act annexed shall be considered as next adjoining to the county named in conjunction with the same respectively in the second column of the said Schedule (C.)

CX. That after the said first day of May one thousand eight hundred and thirty-six every person who shall then stand committed to take his trial at any court of gaol delivery, general or quarter sessions of the whose jurisdic- peace for any borough, charged with any offence which the recorder of such borough after the said first day of May will not have jurisdiction away to be tried to try, may be lawfully removed and committed to the gaol or house of correction of the county in which or adjoining to which such borough is situated, there to remain and take his trial at the next court of quarter sessions for such county, if the offence is cognizable by a court of quarter sessions, and if not, then before the judges of over and terminer and gaol delivery at their next circuit; and all persons bound by recognizance to prosecute and give evidence against such offenders shall be bound to appear to prosecute and give their evidence at the court at which such offenders shall be tried as aforesaid; and all such recognizances and all depositions relating to such charges shall be transmitted to the proper officer of the court where such offenders shall be tried; and the sheriff, under-sheriff, gaolers, and other officers of the county in which such offenders shall be so tried are hereby authorized and required in every such case to receive every prisoner so committed to their custody, and him safely to keep until delivered by due course of law; and the judges of assize and others named in his Majesty's commissions of over and terminer and gaol delivery, or the justices for the county, as the case may be, in which such offenders shall be tried, are hereby authorized and required to hear and determine all such cases, and to order the payment of the usual and fit expences of the prosecutors and witnesses, and all other costs and expences which in like case may be directed to be paid by order of the court.

CXI. That after the said first day of May one thousand eight hunto have jurisdic- dred and thirty-six the justices assigned or hereafter to be assigned to keep the peace in and for the county in which any borough is situated, to which his Majesty shall not have granted that a separate court of quarter sessions of the peace shall be holden in and for the same, shall exercise the jurisdiction of justices of the peace in and for such borough as fully as by law they and each of them can or ought to do in and for the said county; and no part of any borough in and for which a separate court of quarter sessions of the peace shall be holden shall be within the jurisdiction of the justices of any county from which such borough before the passing of this act was exempt, any law, statute, letters patent, charter, grant, or custom to the contrary notwith-

Certain boassessed to county rates.

standing. CXII. That within ten days after the grant of a separate court of roughs not to be quarter sessions of the peace to any borough the council of such borough shall send a copy of such grant, sealed with the seal of the borough, to the clerk of the peace of the county in which such borough or any part thereof is situated; and after the grant of such court to any borough it shall not be lawful for the justices of the peace of any county wherein such borough or part of such borough is situate to assess any messuages, lands, tenements, or hereditaments within such borough to any county rate thereafter to be made, but every part of every such borough shall thenceforward be wholly free and discharged from contributing, otherwise than is herein-after provided, to any rate or assess-

County justices tion in all boroughs which have not a separate court of quarter sessions of the peace under this act.

ment of any kind of and for the county in which any part of such borough is situated: Provided nevertheless, that all arrears of such rates 5 & 6 W. 4, theretofore made may be levied and collected as if this act had not been

CXIII. And whereas by an act made in the seventh year of his late Boroughs to Majesty George the Fourth, intituled An Act for improving the Adminis- pay the extration of Criminal Justice in England and Wales, it was enacted that all pences of prorums directed to be paid by virtue of that act in respect of felonies and secutions at the misdemeanors therein enumerated, committed in liberties, franchises, assizes. cities, towns, and places which do not contribute to the payment of any 7 G. 4, c. 64. county rate, should be paid as therein is directed; be it therefore enacted, That all sums directed to be paid by virtue of the last-recited act in respect of felonies and such misdemeanors as aforesaid, committed or supposed to have been committed in any borough in which a separate court of quarter sessions of the peace shall be holden, shall be paid out of the borough fund of such borough, any thing in the said act contained notwithstanding; and the order of court shall in every such case be directed to the treasurer of such borough instead of the treasurer

of the county.

CXIV. That the treasurer of every county in England and Wales Treasurers of shall keep an account of all costs arising out of the prosecution, main-counties to keep tenance, and punishment, conveyance and transport of all offenders committed for trial to the assizes in such county from any borough in which a separate court of quarter sessions of the peace shall be holden; offenders sent and the treasurer of every such county shall, not more than twice in by such boevery year, send a copy of the said account to the council of each of the roughs for trial said boroughs, and shall make an order for payment of the same on the at the assizes, council of such borough; and the council of every such borough shall and make order forthwith order the same, with all reasonable charges of making and on them for paysending such account, to be paid to the treasurer of such county out of ment thereof. the borough fund; and in case any difference shall arise concerning In case of difthe said account, it shall be decided by the arbitration of a barrister to ference respectbe named as is provided in the case of differences with respect to the ing such acpayment of monies under contracts made by authority of an act made count the same in the fifth year of his late Majesty King George the Fourth, intituled to be referred to An Act for amending an Act of the last Session of Parliament, relating to the arbitration, as building, repairing, and enlarging of certain Goals and Houses of Correction, provided in and for procuring Information as to the State of all other Gaols and Houses of Correction in England and Wales: Provided that nothing herein contained shall be construed to alter or restrain the powers given by the last-mentioned act of contracting with the justices of the peace having authority or jurisdiction in and over any gaol or house of correction of the county wherein or where such borough is situated, or whereto it is adjacent, for the conveyance, support, and maintenance in such last-mentioned gaol or house of correction of prisoners committed thereto from such borough, save only that all such powers shall after the first day of May one thousand eight hundred and thirty-six be vested in the council of such borough in the name of the body corporate whose council they are, and in none other; and for the purpose of making such contracts as aforesaid the council of such borough, and none other, shall have power to make the orders required by the said lastmentioned act to be made by the justices of the borough at the borough sessions.

CXV. That in every case in which it shall have been made to appear Council may to the satisfaction of one of his Majesty's principal secretaries of state contract for that there is in any borough a gaol or house of correction fit for the committing priconfinement of prisoners, the council of any borough shall have the soners to the same powers of contracting, in the name of the body corporate whose gaol of another council they are, with any person or body corporate having the government or ordering of such last-mentioned gaol or house of correction, in like manner as is herein-before enacted concerning contracts with justices of the peace having authority or jurisdiction in and over county

an account of expences of prosecution of

No. V. c. 76.

gaols and houses of correction; and all the provisions of the last-5 & 6 W. 4, recited act made in the fifth year of his late Majesty shall extend, or as nearly as may be, to all such contracts for the conveyance to and support and maintenance of offenders in such borough, gaol, or house of correction; and in case his Majesty shall have granted to the borough in which such gaol or house of correction shall be situated a separate court of quarter sessions of the peace, such offenders may be tried and sentenced by such court for all offences of which the court has cognizance, and punished accordingly; and all the provisions of the lastrecited act made in the fifth year of his late Majesty shall extend as nearly as may be to the trial and punishment of such offenders, and to all acts necessary for such trial or consequent thereon.

Council of certain boroughs to have the same powers under the acts 4 G. 4, c. 64, and 5 G.4, c.85, as justices of the peace have at their sessions in counties.

CXVI. And whereas by an act passed in the fourth year of his late Majesty George the Fourth, intituled An Act for consolidating and amending the laws relating to the building, repairing, and regulating of certain Gaols and Houses of Correction in England and Wales, it was provided, that certain cities, towns, and places included in a certain Schedule (A.) to the said act annexed should be taken to be within the provisions of the same: and whereas by an act passed in the fifth year of his late Majesty George the Fourth, intituled An act for amending an act of the last session of Parliament, relating to the building, repairing, and enlarging of certain Gaols and Houses of Correction, and for procuring Information as to the State of all other Gaols and Houses of Correction in England and Wales, so much of the last-recited act as related to the cities of Canterbury, Lichfield, and Lincoln was repealed; be it therefore enacted, that the council of every borough named in the last-mentioned Schedule (A,) (except the cities of Canterbury, Lichfield, and Lincoln) shall have within their borough all the powers (except in hearing and determining appeals against convictions) which any justices of the peace assembled at their general or quarter sessions in any county in England have within the limits of their commission by virtue of the said last-recited acts or either of them, or as near thereto as the nature of the case will admit; and all things in the said last-recited acts or either of them provided to be done at any general or quarter sessions of the peace shall be done at some quarterly meeting of the council of such borough.

Boroughs to pay a proporcounty expenditure.

2 & 3 W. 4, c. 64.

CXVII. That the treasurer of every county in England and Wales shall keep an account of all sums of money received in aid or on tion of the other account of the county rate, and of the sum of money expended out of the county rate for other purposes than the costs arising out of the prosecution, maintenance, and punishment, conveyance and transport of offenders committed for trial in such county, and in the case of boroughs having a separate court of quarter sessions of the peace other than out of coroners' inquests, and shall, not more than twice in every year, send a copy of the said account to the council of every borough situate within such county in which a separate court of quarter sessions of the peace shall be holden, and which before the passing of the said act, intituled An Act to settle and describe the Divisions of Counties and the Limits of Cities and Boroughs in England and Wales, so far as respects the Election of Members to serve in Parliament, was chargeable with or liable to contribute in whole or in part to the county rate of such county, and shall make an order on the council of every such borough for the payment of such proportion of such sum as would have been chargeable, after deducting all sums of money received in aid of the county rate as aforesaid, if this act had not passed, upon such borough as the same shall be bounded according to the provisions of this act; and the council of such borough shall forthwith order the same, with all reasonable charges of making and sending the said account, to be paid to the treasurer of such county out of the borough fund: Provided that in case any difference shall arise concerning the last-mentioned account it shall be decided by the arbitration of a barrister to be named as is provided in the case of differences with respect to the payment of

monies under contracts made by authority of the said act made in the fifth year of his late Majesty King George the Fourth, intituled An Act 5 & 6 W. 4, for amending an Act of the last Session of Parliament, relating to the building, repairing, and enlarging of certain Gaols and Houses of Correction, and for procuring Information as to the State of all other Gaols 5 G. 4, c. 85.

and Houses of Correction in England and Wales. CXVIII. That in every borough in which by charter or custom Borough courts there is or ought to be holden a court of record for the trial of civil of record to be actions not regulated by the provisions of any local act of parliament, holden as hereor in which, at the time of the passing of this act, a barrister of five tolore, but in years' standing shall not act as judge or assessor, the recorder, or in the certain cases absence of the recorder, or in case there shall not be a recorder, such jurisdiction. custom shall be the judge of such court, shall continue to be and act as such judge; and the council of such borough in every case, whether such court be regulated by the provisions of a local act of parliament or otherwise, shall have power for that purpose to appoint the necessary officer, other than the recorder, before whom such court is to be holden; and every such judge or assessor, other than the mayor, shall hold his office during his good behaviour; and the judge of every such court shall hold the said court at such times and places, and with such rules of practice, and with the same powers and jurisdiction as belonged to the said court at the time of passing this act: Provided always, that in every case in which such court had not before the passing of this act authority to try such actions as are herein-after next mentioned any such court in which a barrister of five years' standing shall act as judge or assessor shall have authority to try actions of assumpsit, covenant, and debt, whether the debt be by specialty or on simple contract, and all actions of trespass or trover for taking goods and chattels, provided the sum or damages sought to be recovered shall not exceed twenty pounds, and all actions of ejectment between landlord and tenant wherein the annual rent of the premises of which possession is sought to be recovered shall not exceed twenty pounds, and upon which no fine shall have been reserved or made payable: Provided also, that every such judge respectively from time to time may make rules for regulating the practice of such court over which he presides, but so that no such rules shall be of force until they shall have been allowed and confirmed by three or more judges of the superior courts of common law at Westminster: Provided also, that the jurisdiction of every court of record for the trial of civil actions within any borough shall be extended so far as the metes and bounds of every such borough as the same shall be and be declared under the provisions of this act: Provided also, that no Proviso. action shall be tried by any such judge, wherein the title to land, whether freehold, copyhold, or leasehold, or other tenure whatsoever, or to any tithe, toll, market, fair, or other franchise shall be in question, in any court which before the passing of this act had not authority to try actions in which such titles as last aforesaid were in question; and in case it shall appear in the course of any action in such court as last aforesaid, or shall be made to appear upon oath to such court as last aforesaid, that any such title as last aforesaid is in question in such action, that then the jurisdiction of such court as last aforesaid in the matter of such action shall cease, and it shall be in the discretion of the court to award costs against the party commencing the same.

CXIX. That the council of every borough in which there shall be Council to apholden a court of record for the trial of civil actions as aforesaid shall point registrar appoint a registrar of such court, except in boroughs where the town and other neclerk acts as such registrar, and such other officers and servants as are cessary officers necessary for carrying on the business and executing the process of of the court. such court; provided that no registrar or other officer of such court shall, by himself or any partner, or by his or their clerks, practise as an attorney in such court, nor shall any such partner or clerk act as agent for any other attorney in such court: Provided also, That, unless dis-

No. V. c. 76.

Existing suits reason of the diction.

Who to be jurors.

6 G. 4, c. 50.

Summoning of jurors, &c.

Fine on jurors ance.

qualified as herein provided, every attorney of his Majesty's superior 5 & 6 W. 4, courts at Westminster shall have full liberty to practise as an attorney in every such court.

CXX. That no suit commenced in any court of record in any borough before the first day of May one thousand eight hundred and thirty-six not to abate by shall abate by reason of any change that shall have been made in the constitution of such court by the provisions of this act, but that the change of juris- same may continue and be heard and determined as if it had been com-

CXXI. That every person, being a burgess of any borough wherein

menced before such judge.

there shall be a separate court of sessions of the peace, or a court of record for the trial of civil actions, (unless he shall be exempt or disqualified otherwise than in respect of property from serving on juries by virtue of an act passed in the sixth year of the reign of King George the Fourth, intituled An Act for consolidating and amending the Laws relative to Jurors and Juries,) shall be qualified and liable to serve on grand juries in such borough, and also upon juries for the trial of all issues joined in any court of quarter sessions of the peace, and in any court of record for the trial of civil actions triable within the borough of which such person shall be a burgess; and the clerk of the peace of every such borough shall give public notice of the time and place of holding every such quarter sessions of the peace, ten days at the least before the holding thereof, and shall, seven days at the least before the holding thereof, cause to be summoned a sufficient number of persons, being qualified and liable as aforesaid, to serve as grand jurors at such sessions; and the clerk of the peace and registrar of the court of record respectively shall also cause to be summoned not less than thirty-six nor more than sixty persons so qualified and liable as aforesaid to serve as jurors at every such sessions, and at the holding of every such court of record for the trial of causes, in case there shall be any cause then to be tried; and such summons shall be made by showing to the person to be summoned, or in case he shall be absent from the usual place of his abode by leaving with some person therein inhabiting, notice under the hand of such clerk of the peace or registrar respectively containing the substance of such summons; and such clerk of the peace shall make out a list of the names of such persons so summoned as grand jurors, and the clerk of the peace and registrar respectively shall also make out a panel of such persons so summoned other than grand jurors, and such list and panel shall respectively contain therein the Christian names and surnames, places of abode, and descriptions of the several persons therein named; and if any person, having been duly for non-attend- summoned to attend on any jury, shall not attend in pursuance of such summons, or, being thrice called, shall not answer to his name, or after his appearance wilfully withdraw himself from the presence of the court, the court shall impose such fine upon every person so making default (unless some reasonable excuse shall be proved to the satisfaction of the court) as the court shall think meet; and if any person on whom such fine shall be imposed shall refuse to pay the same to the person who shall be authorized by the court to receive the same, it shall be lawful for the court, then or at its next sitting, by order of the court, signed by the clerk of the peace or registrar respectively, to cause to be levied, by distress and sale of the goods of the person on whom such fine shall have been imposed, every such fine, and the reasonable charges of such distress and sale; and every fine so received shall be paid to the treasurer of the borough, to be by him carried to the account of the borough fund herein-before mentioned. Provided nevertheless, That no person shall be summoned to serve as a juror at such sessions or court of record oftener than once in one year.

CXXII. That after the passing of this act every member of the council Members of the for the time being of every borough, and every justice assigned to keep council, &c. the peace therein, and the treasurer and town clerk for the time being exempt from serving on juries; burgesses of boroughs which have quarter sessions exempt from juries of county

quarter sessions.

of every such borough, shall be exempt and disqualified from serving on any jury summoned within such borough respectively, and exempt from serving on any jury summoned to serve in the county wherein such borough is situate; and all burgesses of every borough in and for which a separate court of quarter sessions of the peace shall be holden shall be exempt from serving on any jury summoned for the trial of issues joined in any court of general of quarter sessions of the peace in the

No. V. 5 & 6 W. 4, c. 76.

county wherein such borough is situate.

CXXIII. That after the passing of this act no person in any borough All chartered shall continue to be exempt from serving on juries in any of the King's exemptions courts of record at Westminster, or in the superior courts, civil or from serving criminal, of the counties palatine of Lancaster and Durham, or in any on juries court of assize, nisi prius, over and terminer, gaol delivery, or sessions of the peace, or in any other of the King's courts, by virtue of any writ, grant, charter, prescription, or otherwise; and so much of an act made 6 G. 4, c. 50, in in the sixth year of the reign of his late Majesty King George the Fourth, part repealed. intituled An Act for consolidating and amending the Laws relative to Jurors, as provides that all persons in any borough exempt from serving upon juries in any of the courts aforesaid, by virtue of any prescription, charter, grant, or writ, shall continue to have and enjoy such exemption in as ample a manner as before the passing of that act, and shall not be inscrted in the lists thereafter mentioned, shall be and the same is

hereby repealed.

CXXIV. That the council of every borough shall and they are hereby Fees payable to required, within six calendar months next after their election, to make and the clerk of the settle a table of the fees which shall be taken by the clerk of the peace in peace, clerk to those boroughs in which a separate court of quarter session of the peace the magistrates, shall be holden, and in those boroughs to which a commission of the peace and registrar shall have been granted, a table of the fees to be taken by the clerk to the the court of justices, and in those boroughs in which there shall be a court of record, record. a table of the fees to be taken by the registrar and officers of such court; and such tables of fees shall be submitted to one of his Majesty's principal secretaries of state; and when such tables of fees shall be confirmed and allowed by such secretary of state, either as such table shall have been submitted to him, or with such alterations, additions, or abatements as he shall think proper, the fees therein mentioned may thenceforth be lawfully taken by the person therein named to be entitled thereunto; and it shall be lawful for the council of such borough, from time to time, as occasion may require, to make new tables of fees to be taken instead of the fees contained in the tables which shall have been made as aforesaid, which new table shall be confirmed and allowed in the manner herein-before mentioned, otherwise the same shall be of no validity; and that until tables of the fees so to be taken in any such borough shall have been made and confirmed as aforesaid it shall be lawful for such clerk of the peace at the quarter sessions for any such borough, and such clerk to the justices, to take the fees authorized by the table for the time being to be taken by the clerk of the peace at the quarter sessions and clerk to the justices respectively for the county within or adjoining to which such borough is situated, and for the registrar and officers of such court of record to take the fees usually taken by them before the passing of this act.

CXXV. That the town clerk of every borough shall cause a true Table of fees to copy of the tables of fees in force for the time being to be hung up in a be hung up. conspicuous part of the room in which the business of his office is transacted, and also in the room wherein the justices of the peace of such borough shall sit for transacting their business, and also in the room wherein the court of quarter sessions of the peace for the borough shall be held, and also in the court of record of the said borough.

CXXVI. That when by any act any penalties or forfeitures are or Application of shall hereafter be made recoverable in a summary manner before any penalties. justice or justices of the peace, and by such act respectively the same are or shall be limited and made payable to his Majesty, or to any body

No. V. 5 & 6 W. 4, c. 76.

corporate, or to any person whomsoever, save and except the informer, who shall sue for the same, or any party aggrieved, in every such case the same, if recovered and adjudged before any justice of any borough in which a separate court of quarter sessions of the peace shall be holden as aforesaid, shall, notwithstanding any thing in such act respectively contained, be recovered for and adjudged to be paid to the treasurer of such borough for the time being, to the credit and on account of the borough fund of such borough; and no such penalty or forfeiture, or share of such penalty or forfeiture, shall in any case be recovered by or adjudged to be paid to any other person than the said treasurer, unless such person be the informer or the party aggrieved: Provided always, That nothing herein contained shall extend to any penalties or forfeitures recovered under any act relating to the customs, excise, and post office, or to trade or navigation, or any branch of his Majesty's revenue.

Limitation of time for prosecution of offences punishable on summary conviction.

CXXVII. And for the more effectual prosecution of offences punishable upon summary conviction by virtue of this act, be it enacted, That the prosecution for every such offence shall be commenced within three calendar months after the commission of the offence, and not otherwise; and that where any person shall be charged on the oath of a credible witness with any such offence before a justice of the peace the justice may summon the party charged to appear before any two justices of the peace acting in and for the borough in which such offence shall have been committed, at a time and place to be named in such summons: and if such party shall not appear accordingly the justices of the peace then and there present (upon proof of the due service of the summons by delivering a copy thereof to the party, or by delivering such copy at the party's usual place of abode to some inmate thereat, and explaining the purport thereof to such inmate,) may either proceed to hear and determine the case in the absence of the party, or may issue their warrant for apprehending, and bringing such party before them, as they shall think proper.

Power to sum-

obedience of summons, &c.

No witness or competent on the ground of rateability.

Payment of penalties;

may be levied by distress;

prisoned.

CXXVIII. That it shall be lawful for any justice of the peace acting mon witnesses. in and for any borough to issue his summons requiring any person to appear before any such justices of the peace for the purpose of giving Penalty for dis-evidence touching any offence against this act: and if any person so summoned shall neglect or refuse to appear at the time and place appointed by such summons, and no reasonable excuse for his absence shall be proved before the justices of the peace then and there present, or if any person appearing in obedience to such summons shall refuse to be examined on oath touching any such offence by the justices then and there present, every person so offending shall, on conviction thereof before the said justices, or any other justices of the peace, forfeit and pay such sum of money not exceeding five pounds as to the convicting justices shall seem meet; and no person, although liable to justice to be in- the rate contributing to the borough fund of any borough, shall be deemed an incompetent witness in proof of any offence against this act by reason of any penalty or forfeiture for such offence being applicable to the use of such borough fund; and no justice of the peace shall be disabled from acting in the execution of this act by reason of his being liable to the rate contributing to the borough fund of any borough.

CXXIX. That the justices of the peace by whom any person shall be summarily convicted and adjudged to pay any sum of money for any offence against this act may adjudge that such person shall pay the same either immediately or within such period as the said justices shall think fit; and in case such sum of money shall not be paid at the time so appointed the same shall be levied by distress and sale of the goods and chattels of the offender, with the reasonable charges of such or offender im- distress; and for want of sufficient distress such offender shall be imprisoned, with or without hard labour, in the common gaol or house of correction, as to the convicting justices shall seem meet, for any term not exceeding one calendar month where the sum to be paid shall

not exceed five pounds, and for any term not exceeding two calendar months in any other case, the imprisonment to cease in each of the 5 & 6 W. 4, cases aforesaid upon payment of the sum due.

No. V. c. 76.

CXXX. That the justices of the peace before whom any person shall be summarily convicted of any offence against this act may cause the Form of conconviction to be drawn up in the following form of words, or in any viction. other words to the like effect, as the case may require; (that is to say,)

BE it remembered, That on the in the year of our Lord day of in the borough of in the county of A. O. is convicted before 'us, J. P. and J. J. P., two of his Majesty's justices of the peace for 'the said county [or borough, or otherwise, as the case may be,] for that ' the said A. O. did here specify the offence, and the time and place when 'and where the same was committed, as the case may be]; and we do adjudge that the said A. O. shall for the said offence forfeit the sum of and shall pay the same immediately [or 'shall pay the same on or before the day of the treasurer for the said borough, to be by him applied ac-

' cording to the directions of the statute in that case made and provided. 'Given under our hands the day and year first above mentioned.'

CXXXI. That any person who shall think himself aggrieved by any Appeal against summary conviction in pursuance of this act may appeal to the next convictions uncourt of general or quarter sessions of the peace to be holden not less der this act. than twelve days after such conviction for the county or for the borough wherein the cause of complaint shall have arisen, provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such sessions, and shall also either remain in custody until the sessions, or enter into a recognizance, with a sufficient surety, before a justice of the peace, within such three days, or at any time during his custody, on giving to the complainant three days' notice in writing of his intention so to do, and of the name, description, and place of abode of his proposed surety, conditioned personally to appear at the said sessions, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded; and upon such notice being given and such recognizance entered into the justice before whom the same shall be entered into shall liberate such person if in custody; and the court at such sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the court shall seem meet, and in case of the dismissal of the appeal or the affirmance of the conviction shall order and adjudge the offender to be dealt with and punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment.

CXXXII. That no conviction, order, warrant, or other matter made No certiorari, or purporting to be made by virtue of this act shall be quashed for &c. want of form, or be removed by certiorari or otherwise into any of his Majesty's courts of record at Westminster; and no warrant of commit. As to informament shall be held void by reason of any defect therein, provided that it lity in warbe therein alleged that it is founded on a conviction, and there be a rants, &c. good and valid conviction to sustain the same; and where any distress shall be made for levying any money by virtue of this act the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceedings relating thereto, nor shall the party distraining be deemed a trespasser ab initio on account of any irregularity afterwards committed by him, but the person aggrieved by such irregularity may recover full satisfaction for

the special damage, if any, in an action upon the case.

No. V. Venue in proceedings acting under this act.

Notice of action.

General issue. Tender of amends, &c.

Jurisdiction of preserved.

CXXXIII. And for the protection of persons acting in the execution 5 & 6 W. 4, of this act, be it enacted, That all actions and prosecutions to be commenced against any person for any thing done in pursuance of this act shall be laid and tried in the county where the fact was committed, and shall be commenced within six calendar months after the fact committed, and not otherwise; and notice in writing of such action, and of against persons the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in any such action the defendant may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases.

CXXXIV. That the courts of quarter sessions of the peace of the the cinque ports towns and ports of Hastings, Sandwich, Dovor, and Hythe, and of the ancient town of Rye, or of such of the said towns and ports and ancient town to which his Majesty shall grant a separate court of quarter sessions of the peace, shall have jurisdiction over offences and matters committed, arising, and happening as well within the boundaries of such towns and ports and ancient town respectively as within the ancient members and liberties not being corporate of the same respectively, and also within the towns named in the schedule to this act which are ancient corporate members and liberties of the said towns and ports and ancient town respectively, and to which his Majesty shall not grant a separate court of quarter sessions of the peace; and also any or either of the said towns and ports of Hastings, Sandwich, Dovor, and Hythe, and ancient town of Rye, to which his Majesty shall not grant a separate court of quarter sessions of the peace, and their or its members and liberties, shall for all purposes relating to the jurisdiction of courts of quarter sessions of the peace be respectively within the jurisdiction of the courts of quarter sessions of the peace of the nearest other of the said towns and ports or ancient town to which his Majesty shall grant a separate court of quarter sessions of the peace; and the recorders, clerks of the peace, and coroners of the said towns and ports and ancient town respectively, or of such of them to which his Majesty shall grant a separate court of quarter sessions of the peace respectively, shall and may have and exercise the same jurisdiction, powers, and authorities within all places within or subject to the jurisdiction of such courts respectively, as within the said ancient towns and ports and ancient town respectively of which they are or may be appointed recorders, clerks of the peace, or coroners.

Jurisdiction of further preserved.

CXXXV. That the justices of the peace of the towns and ports of the cinque ports Hastings, Sandwish, Dovor, and Hythe, and of the ancient town of Rye, or of such of the said towns and ports and ancient town as shall have justices of the peace assigned to them by virtue of this act, shall and may have and exercise the same jurisdiction, powers, and authorities over offences and matters committed, arising, and happening within the ancient members and liberties not being corporate of such towns and ports and ancient town respectively, as such justices shall and may have and exercise within the towns and ports and ancient town for which they are or may be respectively justices of the peace; and also his Majesty's justices of the peace, acting under the authority of a commission 51 G. 3, c. 36. or commissions, issued by virtue of an act passed in the fifty-first year of the reign of his late Majesty King George the Third, intituled An Act to facilitate the Execution of Justice within the Cinque Ports, shall and may have and exercise all the jurisdiction, powers, and authorities given

to such justices by such act of parliament, as well within the members and liberties not being corporate of the said towns and ports and ancient 5 & 6 W. 4, town respectively as within the said towns named in the schedules to this act being corporate members and liberties thereof, or any of them, or any of the said towns and ports and ancient town which shall not have justices of the peace assigned to them by virtue of this act: Pro- Proviso as to vided always, that nothing herein contained shall affect the liability of juries in the of all inhabitant householders within any of the members and liberties cinque ports of the cinque ports and ancient towns thereof, not being corporate, to liberties. serve on juries at quarter sessions as heretofore.

No. V. c. 76.

CXXXVI. Provided always, that nothing contained in this act shall Act not to alter or affect certain letters patent bearing date in the fifth year of the affect letters reign of his Majesty King Edward the Sixth, founding a free grammar patent foundschool at Louth, in the county of Lincoln, and creating a body corporate ing a gammar for the management and regulation thereof, and for the benefit of twelve school at poor persons mentioned in the said letters patent, by the name of the Louth. "warden and six assistants of the town of Louth and free school of King Edward the Sixth in Louth;" but that the said warden and assistants shall continue and be a body corporate with perpetual succession under the provisions of the said letters patent, for the management and regulation of the said school and the purposes aforesaid only, and shall remain and be seised of and entitled to all lands, tolls, tenements, and hereditaments now vested in them for the purposes therein mentioned, in the same manner to all intents and purposes as if this act had not been passed.

CXXXVII. That nothing in this act contained shall be construed to Saving of the alter or affect the rights or privileges, duties or liabilities, of the chan-rights of the cellor, masters, and scholars of the universities of Oxford or Cambridge universities of respectively, as by law possessed under the respective charters of the Oxford and said universities or otherwise, or to entitle any person to be enrolled a Cambridge. citizen of the city of Oxford or burgess of the borough of Cambridge, by reason of his occupation of any rooms, chambers, or premises in any of the colleges or halls of the universities of Oxford or Cambridge, or either of them, or to compel any resident member of either of the said universities to accept any office in or under the body corporate of the mayor and citizens of the city of Oxford, or of the mayor and burgesses of the borough of Cambridge, or to authorize the levy of any rate within the precincts of the said universities, or of any of the colleges

CXXXVIII. That all the jurisdictions and authorities now exercised Not to affect in and over the precinct or close of any cathedral shall be continued, as jurisdiction if this act had not been passed, concurrently with the jurisdiction and over precincts authority of the justices of the peace of the borough within which such of cathedrals, close is situated: and that nothing herein contained shall affect or nor rights of interfere with the rights and privileges granted by charter or act of University of Durham. parliament to the university of Durham.

or halls of the same, which now by law cannot be levied therein.

CXXXIX. That in every case in which any body corporate, or any In cases where particular class, number, or description of members, or the governing bodies corpobody of any body corporate, now is or are in their corporate capacity, rate are seised and not as charitable trustees, according to the meaning and provisions in their corpoof this act, seised or possessed of any manors, lands, tenements, or here-rate capacity of ditaments whereunto any advowson or right of nomination or presentative advowsons, &c. tion to any benefice or ecclesiastical preferment is appendent or appurbe sold as tenant, or of any advowson in gross, or hath or have any right or title ecclesiastical to nominate or present to any benefice or ecclesiastical preferment, every commissioners such advowson and every such right of nomination and presentation may direct. shall be sold at such time and in such manner as the commissioners appointed by his Majesty to consider the state of the established church in England and Wales with reference to ecclesiastical duties and revenues may direct, so that the best price may be obtained for the same: and it shall be lawful for the council of such body corporate, and they are hereby authorized and required, with the consent of the

No. V. c. 76.

Vacancy arising before sale to be supplied by bishop of the diocese.

Periods connected with first registration and election may be defered by order in council.

The king empowered to grant charters of incorporation.

Interpretation clause.

said commissioners or any three or more of them, in writing under their 5 & 6 W. 4, hands, to convey and assure under the common seal of such body corporate such advowson or such right of nomination or presentation as aforesaid to the purchaser or purchasers thereof respectively, his or their heirs, executors, administrators, and assigns, or to such uses as he or they shall direct; and the proceeds of every such sale shall be paid to the treasurer of the borough, whose receipt shall be a sufficient and effectual discharge to the purchaser or purchasers to whom the same shall be given for the amount of his or their purchase money, and shall be by him invested in government securities for the use of the body corporate, and the annual interest payable thereon shall be carried to the account of the borough fund: Provided always, That in any case of vacancy arising before any such sale shall have taken place and been completed, such vacancy shall be supplied by the presentation or nomination of the bishop or ordinary of the diocese in which such benefice -or ecclesiastical preferment is situated.

CXL. And whereas it may happen that the several provisions of this act cannot be carried into effect within the several periods in the present year herein-before specified and limited in that behalf; be it therefore enacted, That it shall be lawful for his Majesty, if he shall think fit, by the advice of his privy council, to order any days and times before the first day of February next for doing the several matters required or authorized by this act to be done, in lieu of the several days and times for the present year herein-before specified, or any of them; and in such case all matters mentioned in such order shall be done on and within such days and times as shall be mentioned respectively in that behalf in such order, as if the days and times mentioned in such order had in every instance been mentioned in this act instead of the days and times herein-before respectively mentioned in that behalf, and not otherwise: Provided always, That nothing herein contained shall authorize his Majesty to appoint any days or times other than are herein-before specified for any matters required or authorized by this act to be done after the expiration of this present year: Provided also, That no person shall be entitled to be enrolled in the burgess roll of any borough in this present year unless he would have been entitled on the last day of August in this year to have his name included in some overseers list, if such list had been made out on the fifth day of September in this year.

CXLI. And whereas sundry towns and boroughs of England and Wales are not towns corporate, and it is expedient that several of them should be incorporated; be it enacted, That if the inhabitant householders of any town or borough in England and Wales shall petition his Majesty to grant to them a charter of incorporation, it shall be lawful for his Majesty, by any such charter, if he shall think fit, by advice of his privy council, to grant the same, to extend to the inhabitants of any such town or borough within the district to be set forth in such charter the powers and provisions in this act contained: Provided nevertheless, That notice of every such petition, and of the time when it shall please his Majesty to order that the same be taken into consideration by his privy council, shall be published by royal proclamation in the London Gazette one month at least before such petition shall be so considered.

CXLII. That in the construction of this act the word "Borough" shall be construed to mean city, borough, port, cinque port, or town corporate, named in one of the said schedules (A.) and (B.); and the words "Body Corporate" shall be construed to mean body corporate named in one of the said schedules (A.) and (B.); and the word "Burgess" shall be construed to mean citizen in the case of a city; and the word "County" shall be construed to mean county, riding, parts, liberty, or division; and the word "Trustees" shall be construed to mean trustees, commissioners, or directors, or the persons charged with the execution of a trust or public duty, by whatever name they are designated; and the word "Parish" shall be construed to mean parish,

township, vill, hamlet, chapelry, tithing, district, precinct, or place maintaining its own poor; and the words "Overseers of the Poor" shall be construed to mean all persons who execute the duties of overseers of the poor; and that in all things herein-before provided to be done, until the first election of councillors in any borough under this act shall have been declared, the word "Mayor" shall be construed to mean the chief officer of a borough, by whatever name he is now called; and in describing any person or thing, any word importing the singular number shall be construed to mean also several persons or things respectively, unless there be something in the subject or context repugnant to such construction; and that no misnomer or inaccurate description of any person, body corporate, or place named in any schedule to this act annexed, or in any roll, list, notice, or voting paper required by this act, shall hinder the full operation of this act with respect to such person, body corporate, or place, provided that the description of such person, body corporate, or place be such as to be commonly understood.

No. V. 5 & 6 W. 4, c. 76.

SCHEDULES TO WHICH THIS ACT REFERS.

SCHEDULE (A).

ENGLAND AND WALES.

BOROUGHS WHICH ARE TO HAVE A COMMISSION OF THE PEACE.

SECTION I PARLIAMENTARY BOUNDARIES TO BE TAKEN UNTIL ALTERED BY PARLIAMENT.

PARLIAMENTARY	BOU	MDAI	KIES	TO BE TAKEN UNTIL ALTERED BY PARLIAMENT.	
Borough.	Wards.	Aldermen.	Councillors.	Style of Corporate Body.	
Aberystwith	0	4	12	Mayor and burgesses of the town, borough, and liberty of Aberystwith.	
Abingdon	0	4	12	Mayor, bailiffs, and burgesses of the borough of Abingdon.	
Barnstaple	2	6	18	Mayor, aldermen, and burgesses of the borough and parish of Barnstaple in the county of Devon.	
Bath	7	14	42	Mayor, aldermen, and citizens of the city of Bath.	
Bedford	2	6	18	Mayor, bailiffs, and burgesses of the town of Bedford.	
Berwick-upon- Tweed	3	6	18	Mayor, bailiffs, and burgesses of the borough of Berwick-upon-Tweed.	
Bridgewater	2	6	18	Mayor, aldermen, and burgesses of the borough of Bridgewater.	
Bridport	2	6	18	Bailiffs and burgesses of the borough of Bridport.	
Bristol	10	16	48	Mayor, burgesses, and commonalty of the city of Bristol.	
Bury St. Ed- mond's	3	6	18	Alderman and burgesses of Bury St. Edmunds in the county of Suffolk.	
Cambridge	5	10	30	Mayor, bailiffs, and burgesses of the borough of Cambridge.	
Canterbury	3	6	18	Mayor and commonalty of the city of Canterbury.	
Cardiff	2	6	18	Bailiffs, aldermen, and burgesses of the town of Cardiff.	
Carlisle	5	10	30	Mayor, aldermen, bailiffs, and citizens of the city of Carlisle.	
Carmarthen	3	6	18	Mayor, burgesses, and commonalty of the borough of Carmarthen.	
Carnarvon	2	6	18	Mayor, bailiffs, and burgesses of the town and borough of Caernarvon.	
Chester	5	10	30	Mayor and citizens of the city of Chester.	
Chichester	2	6	18	Mayor, aldermen, and citizens of the city of Chichester.	
Colchester	3	6	18	Mayor and commonalty of the borough of Colchester.	
Dartmouth	0	4	12		
Denbigh	0	4	12	Aldermen, bailiffs, and burgesses of the borough of Denbigh.	
Derby	6	12	36	Mayor, aldermen, and burgesses of the borough of Derby.	
Devizes	2	6	18	Mayor and burgesses of the borough of Devizes.	

Name and Address of the Owner, where the Owner, which we can also the Owner, which we can also the Owner, while the Owner, wh	سيدسمب				
Borough.	Wards.	Aldermen.	Councillors.	Style of Corporate Body.	
Dorchester	0	4	12	Mayor, bailiffs, aldermen, and burgesses of the	
Dovor	3	6	18	borough of Dorchester in the county of Dorset. Mayor, jurats, and commonalty of the town and port of Dovor.	
Durham	3	6	18	Mayor, aldermen, and commonalty of the city of Durham and Framwelgate.	
Evesham	0	4	12	Mayor, aldermen, and burgesses of the borough of Evesham.	
Gateshead	3	6	18	Boroughholders and freemen of the borough of Gateshead.	
Gloucester	3	6	18	Mayor and burgesses of the city of Gloucester in the county of the city of Gloucester.	
Guildford	0	4	12	Mayor and burgesses of the town of Guldeford in the county of Surrey.	
Harwich	0	4	12	Mayor and burgesses of the borough of Harwich.	
Haverfordwest	0	4	12	Mayor, sheriffs, bailiffs, and burgesses of the county of the town of Haverfordwest, or of the town and county of the town of Haverfordwest.	
Hereford	3	6	18	Mayor, aldermen, and citizens of the city of Hereford.	
Hertford	Ō	4	12	Mayor, aldermen, and commonalty of the borough of Hertford.	
lpswich	5	10	3 0	Bailiffs, burgesses, and commonalty of the town or borough of Ipswich.	
Kendal	3	6	18	Mayor, aldermen, and burgesses of the borough of Kirby-in-Kendal in the county of Westmorland.	
Kidderminster	3	6	18	High bailiff and commonalty of the horough of Kidderminster in the county of Worcester.	
Kingston-upon- Hull	7	14	42	Mayor and burgesses of the town or borough of Kingston-upon-Hull.	
King's Lynn	3	6	18	Mayor and burgesses of the borough of Lynn Regis.	
Leeds	12	16	48	Mayor, aldermen, and burgesses of the borough of Leeds in the county of York.	
Leicester	7	14	42	Mayor, bailiff, and burgesses of the borough of Leicester.	
Leominster	0	4	12	Bailiffs and burgesses of the borough of Leominster.	
Lichfield	2	6	18	Bailiff and citizens of the city of Lichfield.	
Liverpool	16	16	48	Mayor, bailiffs, and burgesses of the borough of Liverpool.	
Macclesfield	6	12	36	Mayor, aldermen, and burgesses of the borough of Macclesfield.	
Monmouth	0	4	12	Mayor, bailiffs, and commonalty of the town and borough of Monmouth.	
Neath	0	4	12	Portreeve, aldermen, and burgesses of the borough of Neath.	
Newark	3	6	18	Mayor and aldermen of the borough of Newark in the county of Nottingham.	
Newcastle-under- Lyne		6	18	Mayor, bailiffs, and burgesses of Newcastle-under- Lyne in the county of Stafford.	
Newcastle-upon- Tyne	7	14	42	Mayor and burgesses of the town of Newcastle- upon-Tyne in the county of the town of New- castle-upon-Tyne.	
Newport, Mon- mouth	'	6	18	Mayor, aldermen, and burgesses of the borough of Newport.	
Newport (Isle of Wight)	2	6	18	Mayor, aldermen, and chief burgesses of the borough of Newport in the Isle of Wight in the county of Southampton.	

Borough.	Wards.	Aldermen.	Councillors.	Style of Corporate Body.
Northampton Norwich	3 8	6 16	18 48	Mayor, bailiffs, and burgesses of Northampton. Mayor, sheriffs, citizens, and commonalty of the city of Norwich.
Nottingham Oxford	7 5	14 10	42 30	Mayor and burgesses of the town of Nottingham. Mayor, bailiffs, and commonalty of the city of Oxford in the county of Oxford.
Pembroke	2	6	18	Mayor, bailiffs, and burgesses of the town and borough of Pembroke.
Poole	2	6	18	Mayor, bailiffs, burgesses, and commonalty of the town of Poole.
Portsmouth	7	14	42	Mayor, aldermen, and burgesses of the borough of Portsmouth in the county of Southampton.
Preston	6	12	36	Mayor, bailiffs, and burgesses of the borough of Preston in the county palatine of Lancaster.
Reading	3	6	18	Mayor, aldermen, and burgesses of the borough of Reading in the county of Berks.
Ripon	0	4	12	Mayor, burgesses, and commonalty of the borough of Ripon in the county of York.
Rochester	3	6	18	Mayor and citizens of the city of Rochester in the county of Kent.
St. Albans	0	4	12	Mayor and aldermen and burgesses of the borough of Saint Albans in the county of Hertford.
Sarum, New	3	6	18	Mayor and commonalty of the city of New Sarum in the county of Wilts.
Scarborough Shrewsbury	2 5	6 10	18 30	Bailiffs and burgesses of the town of Scarborough. Mayor, aldermen, and burgesses of the town of
Southampton	5	10	30	Shrewsbury in the county of Salop. Mayor, bailiffs, and burgesses of the town of South
Stafford	2	6	18	ampton. Mayor, aldermen, and burgesses of the borough of Stafford.
Stamford	2	6	18	Mayor, aldermen, and capital burgesses of the town or borough of Stamford in the county of Lincoln
Stockport	7	14	42	Mayor, aldermen, and burgesses of the borough of Stockport.
Sudbury	0	4	12	Mayor, aldermen, and burgesses of the borough of Sudbury.
Sunderland	7	14	42	Mayor, aldermen, and commonalty of the borough of Sunderland.
Swansea	3	6	18	Portreeve, aldermen, and burgesses of the borough of Swansea.
Tiverton	3	6	18	Mayor and burgesses of the town and parish of Tiverton in the county of Devon.
Truro	2	6	18	Mayor, aldermen, and capital burgesses of the borough of Truro.
Warwick	2	6	18	Mayor, aldermen, and burgesses of the borough o Warwick.
Wells	0	4	12	Mayor, masters, and burgesses of the city o borough of Wells in the county of Somerset.
Weymouth and Melcombe Re-	2	6	18	Mayor, masters, and burgesses of the city of borough of Wells in the county of Somerset. Mayor, aldermen, bailiffs, burgesses, and commonalty of the borough and town of Weymouth and Melcombe Regis in the county of Dorset. Mayor, aldermen, and burgesses of the borough of Wigar. Mayor, bailiffs, and commonalty of the city of Winchester.
Wigan	5	10	30	Mayor, aldermen, and burgesses of the borough of Wigar.
Winchester	3	6	18	Mayor, bailiffs, and commonalty of the city of Winchester.

Borough.	Wards.	Aldermen.	Councillors.	Style of Corporate Body.
Windsor	2	6	18	Mayor, bailiffs, and burgesses of the borough of New Windsor in the county of Berks.
Windsor Worcester	6	12	36	Mayor, aldermen, and citizens of the city of Wor- cester.
Yarmouth, Great.	6	12	36	Mayor, aldermen, burgesses, and commonalty of the borough of Great Yarmouth in the county of Norfolk.

SECTION 2.

MUN ICIPAL BOUNDARIES TO BE TAKEN UNTIL ALTERED BY PARLIAMENT.

MUN ICIPAL BOUNDARIES TO BE TAKEN UNTIL ALTERED BY PARLIAMENT.								
Andevor	0	4	12	Bailiff, approved men, and burgesses of the borough of Andevor.				
Banbury	0	4	12	Mayor, aldermen, and burgesses of the borough of Banbury in the county of Oxford.				
Beverley	2	6	18	Mayor, aldermen, and burgesses of the borough of Beverley in the county of York.				
Bewdley	O	4	12	Bailiffs, burgesses, and inhabitants of the town and borough of Bewdley.				
Bideford	0	4	12	Mayor, aldermen, and capital burgesses of the borough, town, and manor of Bideford in the county of Devon.				
Boston	3	6	18	Mayor, aldermen, and burgesses of the borough of Boston.				
Brecon	0	4	12	Bailiff, aldermen, and burgesses of the borough of Brecon.				
Bridgnorth	0	4	12	Bailiffs, aldermen, and burgesses of the borough of Bridgnorth.				
Clitheroe	0	4	12	Bailiffs and burgesses of the borough of Clitheroe in the county of Lancaster.				
Chesterfield	0	4	12	Mayor, aldermen, and burgesses of the borough of Chesterfield.				
Congleton	3	б	18	Mayor, aldermen, and burgesses of the borough of Congleton in the county of Chester.				
Coventry	б	12	36	Mayor, bailiffs, and commonalty of the city of Coventry.				
Deal	2	6	18	Mayor, jurats, and commonalty of the town of Deal in the county of Kent.				
Doncaster	3	6	18	Mayor, aldermen, and burgesses of the borough of Doncaster in the county of York.				
Exeter	6	12	36	Mayor, bailiffs, and commonalty of the city of Exeter.				
Falmouth	0	4	12	Mayor, aldermen, and burgesses of the town of Falmouth in the county of Cornwall.				
Grantham	0	4	12	Aldermen and burgesses of the town or borough of Grantham.				
Gravesend	2	6	18	Mayor, jurats, and inhabitants of the villages and parishes of Gravesend and Melton in the county of Kent.				
Grimsby	0	4	12	Mayor and burgesses of the town of Grimsby in the county of Lincoln.				
hastings	3	6	18	Mayor, jurats, and commonalty of the town and port of Hastings in the county of Sussex.				
Kingston - upon - Thames		6	18	Bailiffs and freemen of the borough of Kingston-upon-Thames.				

			1	
Borough.	Wards.	Aldermen.	Councillors.	Style of Corporate Body.
Lancaster	3	6	18	Mayor, bailiffs, and commonalty of the town of Lancaster in the county palatine of Lancaster.
Lincoln	3	6	18	Mayor, sheriffs, citizens, and commonalty of the city of Lincoln.
Liskeard	0	4	12	Mayor and burgesses of the borough of Liskerret otherwise Liskeard in the county of Cornwall.
Lohut	2	6	18	Warden and six assistants of the town of Louth and Free School of King Edward the Sixth in Louth.
Ludlow	0	4	12	Bailiffs, burgesses, and commonalty of the town and borough of Ludlow.
Maidstone	3	6	18	Mayor, jurats, and commonalty of the King's Town and parish of Maidstone in the county of Kent.
Maldon	0	4	12	Mayor, aldermen, and capital burgesses and com- monalty of Maldon.
Newbury	0	4	12	Mayor, aldermen, and burgesses of the borough of Newbury.
Oswestry	2	6	18	Mayor, aldermen, common councilmen, and burgesses of Oswestry.
Penzance	2	6	18	Mayor, aldermen, and commonalty of the town of Penzance in the county of Cornwall.
Plymouth	6	12	36	Mayor and commonalty of the borough of Plymouth.
Pontefract	Ō	4	12	Mayor, aldermen, and burgesses of the borough or town of Pontefract.
Richmond	0	4	12	Mayor and aldermen of the borough of Richmond in the county of York.
Romsey	0	4	12	Mayor, aldermen, and burgesses of the town of Romsey Infra in the county of Southampton.
St. Ives	0	4	12	Mayor and burgesses of the borough of St. Ives.
Saffron Walden	0	4	12	Mayor and aldermen of the town of Saffron Walden in the county of Essex.
Stockton	2	6	18	Mayor, aldermen, burgesses, and commonalty of the borough of Stockton.
Tewkesbury	0	4	12	Bailiffs, burgesses, and commonalty of the borough of Tewkesbury in the county of Gloucester.
Walsall	3	6	18	Mayor and commonalty of the borough and foreign of Walsall in the county of Stafford.
Welchpool	o	4	12	Bailiffs and burgesses of the borough of Poole in the county of Montgomery.
Wenlock	3	6	18	Burgesses of the borough of Wenlock.
Wisbech	2	6	18	Burgesses of the borough of Wisbech.
York	6	12	36	Mayor and commonalty of the city of York.

SCHEDULE (B.)

ENGLAND AND WALES.

BOROUGHS WHICH ARE NOT TO HAVE A COMMISSION OF THE PEACE UNLESS ON PETITION AND GRANT.

SECTION 1. PARLIAMENTARY BOUNDARIES TO BE TAKEN UNTIL ALTERED BY PARLIAMENT.

Borough.	Wards.	Aldermen.	Councillors.	Style of Corporate Body.
Arundel	0	4	12	Mayor and burgesses of the borough of Arundel.
Beaumaris	0	4	12	Mayor, bailiff, and burgesses of the borough of Beaumaris.
Cardigan	0	4	12	Mayor, common council, and burgesses of the town and borough of Cardigan.
Llanidloes	0	4	12	Mayor and burgesses of the borough of Llanidloes.
Pwllheli	0	4	12	Mayor, bailiffs, and burgesses of the borough of Pwllheli.
Ruthin	0	4	12	Aldermen and burgesses of the borough of Ruthin.
Tenby	0	4	12	Mayor, bailiffs, and burgesses of the borough of Tenby.
Thetford	0	4	12	Mayor and burgesses of the borough of Thetford.
Totnes	0	4	12	Mayor and burgesses of the borough of Totnes in the county of Devon.

SECTION 2.

MUNICIPAL B	OUN	DARI	T 84	BE TAKEN UNTIL ALTERED BY PARLIAMENT.
Basingstoke	0	4	12	Mayor, aldermen, and burgesses of the town of Basingstoke, in the county of Southampton.
Beccles	0	4	12	Portreeve, surveyors, and commonalty of the Fen of Beccles in the county of Suffolk.
Blandford Forum	0	4	12	Bailiff and burgesses of the borough of Blandford Forum in the county of Dorset.
Bodmin	0	4	12	Mayor and burgesses of the borough of Bodmin in the county of Cornwall.
Buckingham	0	4	12	Bailiff and burgesses of the borough and parish of Buckingham in the county of Buckingham.
Calne	0	4	12	Guild stewards and burgesses in the borough of Calne.
Chard	0	4	12	Portreeve and burgesses of the borough of Chard in the county of Somerset.
Chippenham	0	4	12	Bailiffs and burgesses of the borough of Chippen- ham in the county of Wilts.
Chipping Norton	0	4	12	Bailiffs and burgesses of the borough of Chipping Norton in the county of Oxford.
Daventry	0	4	12	Bailiffs, burgesses, and commonalty of the borough of Daventry in the county of Northampton.
Droitwich	0	4	12	Bailiffs and burgesses of the borough of Wych otherwise Droitwitch in the county of Worcester.
Eye	0	4	12	Bailiff, burgesses, and commonalty of the town and burgh of Eye.
Paversham	0	4	12	Mayor, jurats, and commonalty of the town of Faversham.

[Part I.

Borough.	Wards.	Aldermen.	Councillors.	Style of Corporate Body.		
Folkestone	0	4	12	Mayor, jurats, and commonalty of the town of Folkestone.		
Flint	0	4	12	Mayor, bailiffs, and burgesses of the borough of Flint.		
Glastonbury	0	4	12	Mayor and burgesses of the town of Glastonbury in the county of Somerset.		
Godalming	o	4	12	Warden and inhabitants of the town of Godal-		
Godmanchester.	O	4	12	ming. Bailiffs, assistants, and commonalty of the borough of Circnester alias Godmanchester.		
Helstone	0	4	12	Mayor and commonalty of the borough of Helston.		
Huntingdon	0	4	12	Mayor, aldermen, and burgesses of the borough of Huntingdon.		
Hythe	0	4	12	Mayor, jurats, and commonalty of the town and port of Hythe in the county of Kent.		
Launceston	0	4	12	Mayor and commonalty of the borough of Dunne- heved otherwise Launceston.		
Llandovery	0	4	12	Bailiff and burgesses of the borough of Llanymthe- verye.		
Lyme Regis	0	4	12	Mayor and burgesses of the borough of Lyme in the county of Dorset.		
Lymington	0	4	12	Mayor and burgesses of the borough of Lymington.		
Maidenhead	0	4	12	Mayor, bridgemasters, and burgesses of the town of Maydenheth.		
Marlborough	0	4	12	Mayor and burgesses of the borough and town of Marlborough in the county of Wilts.		
Morpeth	0	4	12	Bailiffs and burgesses of the borough of Morpeth in the county of Northumberland.		
Penryn	0	4	12	Mayor and burgesses of Penryn in the county of Cornwall.		
Retford, East	0	4	12	Bailiffs and burgesses of East Retford in the county of Nottingham.		
Rye	0	4	12	Mayor, jurats, and commonalty of the ancient town of Rye.		
Sandwich	0	4	12	Mayor, jurats, and commonalty of the town and port of Sandwich in the county of Kent.		
Shaftesbury	0	4	12	Mayor and burgesses of the borough of Shafton otherwise Shaftesbury in the county of Dorset.		
South Wold	0	4	12	Bailiffs, aldermen, and burgesses of the borough of South Wold.		
South Molton	0	4	12	Mayor and burgesses of the borough and parish of South Molton in the county of Devon.		
Stratford-on- Avon.	0	4	12	Mayor, aldermen, and burgesses of the borough of Stratford-upon-Avon.		
Tamworth	0	4	12	Bailiffs and commonalty of the borough of Tam- worth.		
Tenterden	0	4	12	Mayor, jurats, and commons of the town and hun- dred of Tenterden in the county of Kent.		
Torrington	0	4	12	Mayor, aldermen, and burgesses of the borough and town of Great Torrington in the county of Devon.		
Wallingford	0	4	12	Mayor, burgesses, and commonalty of the borough of Wallingford.		
Torrington Wallingford Wycombe, Chepping.	0	4	12	Mayor, bailiffs, and burgesses of the borough of Chipping Wycombe (otherwise Wicombe) in the county of Buckingham.		

SCHEDULE (C.)

No. V. 5 & 6 W. 4, c. 76.

Berwick-upon-Tweed.
Bristol.
Chester.
Exeter.
Kingston-upon-Hull.
Newcastle-upon-Tyne.

Northumberland Gloucestershire. Cheshire. Devonshire. Yorkshire. Northumberland.

SCHEDULE (D.)

No. 1.

THE LIST OF BURGESSES of the borough of the parish [or township] of

in

Christian name and surname of each person at full length.	Nature of the property rated.	Street, lane, or other place in this parish (or township) where the property is situated for which he is now rated.	
Ashton, John	Shop	No. 23, Church-street.	
Bates, Thomas	House	No. 23, Church-street Brooke's Farm.	
(8	Signed) A. B. C. D.	Overseers of the said parish [or township.]	

No. 2.

NOTICE OF CLAIM.

To the town clerk of the borough of

I HEREBY give you notice, That I claim to have my name inserted in the burgess list of the borough of that I occupy [here describe the house, warehouse, counting-house, or shop then occupied by the claimant] in the borough, and that I have been rated in the parish of [here state the parish or several parishes, and the time during which the claimant has been rated in each of them within the borough, necessary for his qualification.]

Dated the

day of

in the year

(Signed) John Allen of [Place of Abode.]

No. 3.

NOTICE OF OBJECTION.

To the town clerk of the borough of person objected to, as the case may be].

[or to the

I HEREBY give you notice, That I object to the name of Thomas Bates of Brook's Farm, in the parish of [describe the person objected to as described in the burgess list] being retained on the burgess list of the borough of

Dated the

day of

in the year

(Signed) John Ashton of [here state the place of abode and property for which he is said to be rated in the burgess list].

No. V. 5 & 6 W. 4, c. 76.

No. 4.

LIST OF CLAIMANTS.

The following persons claim to have their names inserted on the burgess list of the borough of .

Christian name and surname of each claimant.	Nature of the property for which he is now rated.	Situation of the property for which he is now rated.	Parish (or Parishes) in which he has been rated, as stated in the claim.
Allen, John	House	No. 17, High Street.	Rated in the last year in St. Mary's parish, in the borough, and in the two preceding years in St. James's parish in the borough.
		(Signed)	A. B. Town Clerk.

No. 5.

LIST OF PERSONS OBJECTED TO.

The following persons have been objected to as not being entitled to have their names retained on the burgess list of the borough of

Christian name and surname of each person objected to.	Nature of the property for which he is now rated.	Situation of the pro- perty for which he is said to be now rated in the over- seer's list.	Parish in which is the property for which he is now said to be rated in the overseer's list.
Bates, Thomas -	House	Brook's Farm.	Saint James's.

(Signed) A. B. Town Clerk.

No. V. 5 & 6 W. 4,

c. 76.

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SCHEDULE (E.)
Abingdon .......... 6 G. 4, c. 189.
Arundel . . . . . . . . . . . . 25 G. 3, c. 90.
Banbury ..... 5 G. 4, c. 130.
Barnstaple........... 51 G. 3, c, 154.
Basingstoke .......... 55 G. 3, c. 7.
Bath ...... 33 G. 3, c. 89. 41 G. 3, c. 126. 54 G. 3, c. 105.
                   6 G. 4, c. 74.
Beccles ........... 36 G. 3, c. 51.
Berwick-upon-Tweed .. 40 G. 3, c. 25.
Beverley ...... 48 G. 3, c. 87. 6 G. 4, c. 138.
.46 G. 3, c. 41.
Brecknock............ 16 G. 3, c. 56.
Bridport..... 25 G. 3.
29 G. 2, c. 47. 6 G. 3, c. 34. 23 G. 3,
                   c. 65. 46 G. 3, c. 26. 3 G. 4, c. 24.
                   2 G. 4, c. 89. 5 G. 4, c. 79.
Bury Saint Edmund's . . 51 G 3, c. 9. 1 G. 4.
Canterbury ...... 27 G. 3, c. 31.
Cardiff ..... G. 3, c. 7.
Chester ...... 2 G. 3. 43 G. 3, c. 47.
Chepping Wycombe.... 53 G. 3 c. 164.
Chippenham . . . . . . . 4 W. 4, c. 47.
Dartmouth .......... 55 G. 3, c. 28.
Daventry ...... 46 G. 3, c. 118.
Derby...... 32 G. 3, c. 78.
                          6 G. 4, c. 132.
Devizes . . . . . . . . . . . 21 G. 3, c. 36.
                          6 G. 4, c. 162.
Doncaster . . . . . . . . . . . . . 43 G. 3, c. 147.
4 W. 4, 22 May.
                          50 G. 3, c. 26. 11 G. 4, c. 117.
Exeter ...... 1 G. 3. 46 G. 3, c. 39. 50 G. 3, c. 146.
                   2 & 3 W. 4, c. 106.
Faversham..... 29 G. 3, c. 69.
Folkestone........... 36 G. 3, c. 49.
Gateshead . . . . . . . . . . . . 54 G. 3, c. 109.
Glastonbury ..... 51 G. 3, c. 173.
Gloucester..... 4 G. 3, c. . . 17 G. 3, c. 68. 21 G. 3, c. 74.
                1 & 2 G. 4, c. 22. 4 W. 4, c. 44.
Godalming..... 6 G. 4, c. 177.
Guildford ........ 32 G. 2. 52 G. 3, c. 51.
Harwich..... 59 G. 3, c. 118.
Hastings ..... 2 W. 4, c. 45.
                          2 W. 4, c. 91.
Hertford ...... 28 G. 3, c. 75. 9 G. 4, c. 38.
 Huntingdon ...... 25 G. 3, c 9.
Hythe..... 38 G. 3, c. 16.
55 G. 3, c. 26. 1 & 2 G. 4, c. 104.
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No. V.
         Kingston-upon-Hull .. 28 G. 2, c. 27. 2 G. 3. 4 G. 3. 23 G. 3, c. 55.
5 & 6 W. 4,
                               41 G. 3, c. 30. 50 G. 3, c. 41.
  c. 76.
         Kidderminster ...... 53 G. 3, c. 83.
         Kingston-upon-Thames .13 G. 3, c. 61.
         King's Lynn...... 43 G. 3, c. 37.
         Lancaster ..... 5 G. 4, c. 66.
         5 G. 4, c. 124.
         Leominster ......... 48 G. 3, c. 148.
         Lincoln ... . . . . . . . . . . 9 G. 4, c. 27.
         1 G. 4, e. 13. 7 G. 4, c. 57. 11 G. 4, c. 15.
         Louth...... 6 G. 4, c. 129.
         Ludlow ..... 28 G. 3, c. 25.
         Macclesfield .......... 54 G. 3, c. 23. 6 G. 4, c. 96. 11 G. 4, c. 124.
         Maidstone ..... 31 G. 3, c. 62. 42 G. 3, c. 90. 59 G. 3, c. 16.
         Monmouth..... 58 G. 3, c. 81.
         Newbury ...... 6 G. 4, c. 72.
         Newcastle-under-Lyme. .59 G. 3, c. 71.
         Newcastle-upon-Tyne . . 3 G. 3. 26 G. 3, c. 39. 52 G. 3, c. 76.
         Newport, (Isle of Wight.)26 G. 3, c. 119.
         Newport, (Monmouth.) .7 G. 4, c. 6.
         Northampton ......... 18 G. 3, c. 79. 37 G. 3, c. 42. 54 G. 3, c. 193.
         Nottingham ..... 2 G. 3. 1 & 2 G. 4, c. 70.
         Oswestry ...... 49 G. 3, c. 140.
         5 & 6 W. 4, c.
         Pembroke ...... 9 G. 4, c. 119.
         Pontefract ..... 50 G. 3, c. 40.
         Portsmouth ...... 8 G. 3. 16 G. 3, c. 59. 32 G. 3, c. 103.
                              7 G. 4, c. 64.
         Preston ..... 55 G. 3, c. 22.
         Reading ..... 7 G. 4, c. 56.
         Rochester ..... 9 G. 3, c. 32.
         Sandwich ........... 27 G. 3, c. 67.
         Sarum, New .......... 10 G. 2. 55 G. 3, c. 23.
         Scarborough . . . . . . . 41 G. 3, c. 94.
         Shrewsbury .......... 29 G. 2, c. 78. 1 & 2 G. 4, c. 58.
         Southampton......... 10 G. 3, c. 25. 50 G. 3, c. 169.
         St. Alban's ..... 44 G. 3, c. 8.
         Stockport ..... 7 G. 4, c. 118.
         Stockton .......... 1 G. 4, c. 62.
                                       50 G. 3, c. 27. 7 G. 4, c. 120.
         Sunderland ...... 50 G. 3, c. 25.
         Swansea ...... 49 G. 3, c. 79.
         Tewkesbury ...... 26 G. 3, c. 17.
         Tiverton..... 5 G. 2. 34 G. 3, c. 52. 3 G. 4, c. 60.
         Truro . . . . . . . . . . . . 30 G. 3, c. 62.
         Wallingford ......... 35 G. 3, c. 75.
         Walsall ..... 5 G. 4, c. 68.
         Wells...... 1 & 2 G. 4, c. 12. 2 W. 4, c. 37.
        Weymouth and Melcombe Regis. . 16 G. 3, c. 57. 50 G. 3, c. 187.
        Windsor..... 9 G. 3, c. 10.
        Worcester . . . . . . . . 4 G. 4, c. 69.
        Yarmouth, Great ..... 50 G. 3, c. 23.
        York ...... 6 G. 4, c. 127. 3 W. 4, c. 62.
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PART II.

Of Real Estates.

- CLASS I. Miscellaneous Statutes concerning Real Estates.
 - 2. Tithes.
 - 3. Approvement and Inclosure of Commons.
 - 4. Joint Tenants, Coparceners, and Tenants in Common.
 - 5. Mortmain and Charitable Uses.
 - 6. Conveyances by Infants, Lunatics, &c.
 - 7. Fraudulent Conveyances.
 - 8. Leases.
 - 9. Uses.
 - 10. Fines and Recoveries.
 - 11. Wills.
 - 12. Land Revenue of the Crown.

CLASS. I.

MISCELLANEOUS STATUTES.

[No. I.] 1 W. IV. c. 46.—An act to alter and amend the Law [16th July 1830.] relating to Illusory Appointments.

WHEREAS, by deeds, wills, and other instruments, powers are frequently given to appoint real and personal property amongst several objects, in such manner that none of the objects can be excluded by the donee of the power from a share of such property: and whereas appointments in exercise of such powers, whereby an unsubstantial, illusory, or nominal share of the property affected thereby is appointed to or left unappointed to devolve upon any one or more of the objects thereof, are invalid in equity, although the like appointments are good and binding at law: and whereas considerable inconvenience hath arisen from the rule of equity relative to such appointments, and it is expedient that such appointments should be as valid in equity as at law: be it therefore enacted, &c. That no appointment, which from and Illusory apafter the passing of this act, shall be made in exercise of any power or pointments authority to appoint any property, real or personal, amongst several shall be valid objects, shall be invalid or impeached in equity, on the ground that in equity as an unsubstantial, illusory, or nominal share only shall be thereby ap-well as at law. Pointed to or left unappointed to devolve upon any one or more of the objects of such power; but that every such appointment shall be valid

No. I.

and effectual in equity as well as at law, notwithstanding that any one 1 W. 4, c. 46. or more of the objects shall not thereunder, or in default of such appointment, take more than an unsubstantial, illusory, or nominal share of the property subjected to such power.

Not to affect declares the amount of the share;

II. Provided always, and be it further enacted, that nothing in this any deed which act contained shall prejudice or affect any provision in any deed, will, or other instrument creating any such power as aforesaid, which shall declare the amount of the share or shares from which no object of the power shall be excluded.

nor to give any other force to any appointment than the same would have had.

III. Provided also, and be it further enacted and declared, that nothing in this act contained shall be construed, deemed, or taken, at law or in equity, to give any other validity, force, or effect to any appointment, than such appointment would have had if a substantial share of the property affected by the power had been thereby appointed to or left unappointed to devolve upon any object of such power.

[No. II.] 1 W. IV. c. 47.—An Act for consolidating and amending the Laws for facilitating the Payment of Debts out of Real Estate. (1) [16th July 1830.]

WHEREAS, &c. [Recites the titles of the 3 & 4 W. & M. c. 14, 6 & 7 W. 3, c. 14, 4 Ann. c. 5, (I.) 47 G. 3, c. 74.] And whereas it is expedient that the provisions of the said recited acts should be enlarged, and that the said recited acts should be repealed, in order that all the provisions relating to this matter should be consolidated in one act; be it therefore enacted by the king's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that the said several recited acts shall be and the same are hereby repealed, but so as not to affect any of the provisions and remedies of the said acts, or any of them, to the benefit of which any persons are entitled, as against any estate or interest in any lands, tenements, hereditaments, or other real estate, of any person or persons who died before the passing of this act.

Recited acts repealed.

For remedying frauds committed on cre-

11. And whereas it is not reasonable or just that by the practice or contrivance of any debtors their creditors should be defrauded of their just debts, and nevertheless it hath often so happened, that where ditors by wills. several persons having by bonds, covenants, or other specialties bound themselves and their heirs, and have afterwards died seised in fee simple of and in manors, messuages, lands, tenements, and hereditaments, or had power or authority to dispose of or charge the same by their wills or testaments, have, to the defrauding of such their creditors, by their last wills or testaments, devised the same or disposed thereof in such manner as such creditors have lost their said debts; for remedying of which, and for the maintenance of just and upright dealing, be it therefore further enacted, That all wills and testamentary limitations, dispositions, or appointments, already made by persons now in being, or hereafter to be made by any person or persons whomsoever, of or concerning any manors, messuages, lands, tenements, or hereditaments, or any rent, profit, term, or charge out of the same, whereof any person or persons, at the time of his, her, or their decease, shall be seised in fee simple, in possession, reversion, or remainder, or have power to dispose of the same by his, her, or their last wills or testaments, shall be deemed or taken, (only as against such person or persons, bodies politic or corporate, and his and their heirs, successors, executors, administrators, and assigns, and every of them, with whom the person

Class I.] Miscellaneous Statutes concerning Real Estates.

or persons making any such wills or testaments, limitations, dispositions, or appointments shall have entered into any bond, covenant, or 1 W. 4, c. 47. other specialty binding his, her, or their heirs,) to be fraudulent, and clearly, absolutely, and utterly void, frustrate, and of none effect; any pretence, colour, feigned or presumed consideration, or any other

matter or thing to the contrary notwithstanding.

III. And, for the means that such creditors may be enabled to Enabling crerecover upon such bonds, covenants, and other specialties, be it further ditors to recoenacted, That in the cases before mentioned every such creditor shall ver upon and may have and maintain his, her, and their action and actions of debt or covenant upon the said bonds, covenants, and specialties against the heir and heirs at law of such obligor or obligors, covenantor or covenantors, and such devisee and devisees, or the devisee or devisees of such first-mentioned devisee or devisees jointly, by virtue of this act; and such devisee and devisees shall be liable and chargeable for a false plea by him or them pleaded, in the same manner as any heir should have been for any false plea by him pleaded, or for not confessing the lands or tenements to him descended.

IV. That if in any case there shall not be any heir at law against If there is no whom, jointly with the devisee or devisees, a remedy is hereby given, heir at law acin every such case every creditor to whom by this act relief is so given tions may be shall and may have and maintain his, her, and their action and actions maintained of debt or covenant, as the case may be, against such devisee or against the devisees solely: and such devisee or devisees shall be liable for false

plea as aforesaid.

V. Provided always, That where there hath been or shall be any Not to affect limitation or appointment, devise or disposition, of or concerning any limitations for manors, messuages, lands, tenements, or hereditaments, for the raising just debts, or or payment of any real and just debt or debts, or any portion or portions, portions for sum or sums of money, for any child or children of any person, ac-children. cording to or in pursuance of any marriage contract or agreement in writing, bond fide made before such marriage, the same and every of them shall be in full force, and the same manors, messuages, lands, tenements, and hereditaments shall and may be holden and enjoyed by every such person or persons, his, her, and their heirs, executors, administrators and assigns, for whom the said limitation, appointment, devise, or disposition was made, and by his, her, and their trustee or trustees, his, her, and their heirs, executors, administrators, and assigns, for such estate or interest as shall be so limited or appointed, devised or disposed, until such debt or debts, portion or portions, shall be raised, paid, and satisfied, any thing in this act contained to the contrary notwithstanding.

VI. That in all cases where any heir at law shall be liable to pay the Heir at law to debts or perform the covenants of his ancestors, in regard of any lands, be answerable tenements, or hereditaments descended to him, and shall sell, alien, or for debts, almake over the same, before any action brought or process sued out though he may against him, such heir at law shall be answerable for such debt or debts, sell estate beof covenants, in an action or actions of debt or covenant, to the value brought. of the said lands so by him sold, aliened, or made over, in which cases all creditors shall be preferred as in actions against executors and administrators; and such execution shall be taken out upon any judgment or judgments so obtained against such heir, to the value of the said land, as if the same were his own proper debt or debts; saving that the ands, tenements, and hereditaments, bond fide, aliened before the action

brought, shall not be liable to such execution.

VII. Provided always, That where any action of debt or covenant Where an acapon any specialty is brought against the heir, he may plead riens per tion of debt is descent at the time of the original writ brought or the bill filed against him, any thing herein contained to the contrary notwithstanding; and the plaintiff in such action may reply that he had lands, tenements, or riens per hereditaments from his ancestor before the original writ brought or bill descent. filed; and if, upon the issue joined thereupon, it be found for the

No. II.

brought against the heir, he may plead

No. II.

plaintiff, the jury shall inquire of the value of the lands, tenements, or 1 W. 4, c. 47. hereditaments so descended, and thereupon judgment shall be given and execution shall be awarded as aforesaid; but if judgment be given against such heir by confession of the action, without confessing the assets descended, or upon demurrer or nihil dicet, it shall be for the debt and damage, without any writ to inquire of the lands, tenements, or hereditaments so descended.

Devisees to be liable the same as heirs at law.

VIII. Provided always, That all and every the devisee and devisees made liable by this act, shall be liable and chargeable in the same manner as the heir at law by force of this act, notwithstanding the lands, tenements, and hereditaments to him or them devised shall be

Traders' estates shall be assets to be administered in courts of equity.

aliened before the action brought.

IX. That from and after the passing of this act, where any person being, at the time of his death, a trader, within the true intent and meaning of the laws relating to bankrupts, shall die seised of or entitled to any estate or interest in lands, tenements, or hereditaments, or other real estate, which he shall not by his last will have charged with or devised subject to or for the payment of his debts, and which would be assets for the payment of his debts due on any specialty in which the heirs were bound, the same shall be assets to be administered in courts of equity for the payment of all the just debts of such person, as well debts due on simple contract as on specialty; and that the heir or heirs at law, devisee or devisees of such debtor, and the devisee or devisees of such first-mentioned devisee or devisees, shall be liable to all the same suits in equity, at the suit of any of the creditors of such debtor, whether creditors by simple contract or by specialty, as they are liable to at the suit of creditors by specialty in which the heirs were bound: Provided always, That in the administration of assets by courts of equity, under and by virtue of this provision, all creditors by specialty, in which the heirs are bound, shall be paid the full amount of the debts due to them before any of the creditors by simple contract or by specialty, in which the heirs are not bound, shall be paid any part of their demands.

Creditors by specialty to be paid first.

Parol shall not demur by or against infants.

X. That from and after the passing of this act, where any action, suit, or other proceeding for the payment of debts, or any other purpose, shall be commenced or prosecuted by or against any infant under the age of twenty-one years, either alone or together with any other person or persons, the parol shall not demur, but such action, suit, or other proceeding shall be prosecuted and carried on in the same manner and as effectually as any action or suit could before the passing of this act be carried on or prosecuted by or against any infant, where, according to law, the parol did not demur.

Infants to make conveyances under order of the court.

XI. That where any suit hath been or shall be instituted in any court of equity, for the payment of any debts of any person or persons deceased, to which their heir or heirs, devisee or devisees, may be subject or liable, and such court of equity shall decree the estates liable to such debts, or any of them, to be sold for satisfaction of such debt or debts, and by reason of the infancy of any such heir or heirs, devisee or devisees, an immediate conveyance thereof cannot, as the law at present stands, be compelled, in every such case such court shall direct, and, if necessary, compel such infant or infants to convey such estates so to be sold (by all proper assurances in the law) to the purchaser or purchasers thereof, and in such manner as the said court shall think proper and direct; and every such infant shall make such conveyance accordingly; and every such conveyance shall be as valid and effectual to all intents and purposes as if such person or persons, being an infant or infants, was or were at the time of executing the same of the full age of twentyone years. (1)

⁽¹⁾ An application in a creditor's suit under the statute for an infant heir or devisee to convey must be made by petition and not by motion. Anon, 1 Young and Collyer, 75.

XII. That where any lands, tenements, or hereditaments hath been No. III. or shall be devised in settlement by any person or persons whose estate 1 W. 4, c. 47. under this act, or by law, or by his or their will or wills, shall be liable to the payment of any of his or their debts, and by such devise shall be Persons having vested in any person or persons for life or other limited interest, with a life interest any remainder, limitation, or gift over, which may not be vested, or may may convey the be vested in some person or persons from whom a conveyance or other fee, if the estate assurance of the same cannot be obtained, or by way of executory is ordered to be devise, and a decree shall be made for the sale thereof for the payment sold. of such debts or any of them, it shall be lawful for the court by whom such decree shall be made to direct any such tenant for life, or other person having a limited interest, or the first executory devisee thereof, to convey, release, assign, surrender, or otherwise assure the fee simple or other the whole interest or interests so to be sold to the purchaser or purchasers, or in such manner as the said court shall think proper; and every such conveyance, release, surrender, assignment, or other assurance shall be as effectual as if the person who shall make and execute the same were seised or possessed of the fee simple or other whole estate so to be sold.

XIII. That nothing in this act shall extend or be deemed or con- Not to repeal strued to extend to repeal or alter an act made by the parliament of act 33 G. 1, Ireland, in the thirty-third year of the reign of king George the First, (1.) relating to intituled An Act for the better securing the Payment of Bankers' Notes, debts due to end for providing a more effectual Remedy for the Security and Payment bankers. of the Debts due by Bankers.

[No. III.] 1 W. IV. c. 60.—An Act for amending the Laws respecting Conveyances and Transfers of Estates and Funds vested in Trustees and Mortgagees; and for enabling Courts of Equity to give Effect to their Decrees and Orders [23rd July 1830.] in certain Cases. (1)

WHEREAS, &c. [Recites the titles of the 6 G. 4, c. 74, 2 G. 1, (I.), 5 G. 2, (I.), 7 G. 4, c. 43]: And whereas it is expedient that the provisions of the said acts should be consolidated and enlarged: be it therefore enacted, &c. that the said recited acts shall be and the same are Recited acts rehereby repealed, except so far as the same relate to stock belonging pealed, except beneficially to infants or lunatics, and also except as to such proceed as herein menings of any description, under the same acts respectively, as shall have tioned. been commenced before the passing of this act, and which may be proceeded in according to the provisions of the said recited acts respectively, or according to the provisions of this act, as shall be thought expedient: Provided always, that the several acts repealed by the said first-recited act shall not be revived.

II. And inasmuch as, in order to avoid unnecessary repetition, cer-Rules for the tain words are used in this act as describing subjects some of which, interpretation according to their usual sense, such words would not embrace; for the of this act. understanding of the sense attached to them in this act, be it further enacted, that the provisions of this act shall extend to and include the several other estates and persons, matters and things, herein-after mentioned; (that is to say,) those relating to land, to any manor, messuage, tenement, hereditament, or real property, of whatever tenure, and to property of every description transferrable otherwise than in books kept by any company or society, or any share thereof or interest therein; those relating to stock, to any fund, annuity, or security transferrable in books kept by any company or society established or to

⁽¹⁾ See also post, the 4 & 5 W. 4, c. 23, amending the law relative to the escheat and forfeiture of real and personal property holden in trust.

No. III.

be established, or to any money payable for the discharge or redemption 1 W.4, c. 60. thereof, or any share or interest therein; those relating to dividends, to interest or other annual produce; those relating to a conveyance, to any fine, recovery, release, surrender, assignment, or other assurance, including all acts, deeds, and things necessary for making and perfecting the same; those relating to a transfer, to any assignment, payment, or other disposition; those relating to a lunatic, to any idiot or person of unsound mind or incapable of managing his affairs; those relating to an heir, to any devisee or other real representative by the common law, or by custom or otherwise; and those relating to an executor, to any administrator or other personal representative; unless there be something in the subject or context repugnant to such construction; and whenever this act, in describing or referring to any trustee or other person, or any trust land, conveyance, matter, or thing, uses the word importing the singular number or the masculine gender only, the same shall be understood to include and shall be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and several trust lands, stocks, conveyances, matters, or things respectively, as well as one trust land, stock, conveyance, matter, or thing respectively, unless there be something in the subject or context repugnant to such construction.

Where trustees or mortgagees of land are lunatic, the lord chancellor may direct the committees of such persons to convey land;

III. That where any person seised or possessed of any land upon any trust or by way of mortgage shall be lunatic, (1) it shall be lawful for the committee of the estate of such person, by the direction of the lord chancellor of Great Britain, being intrusted by virtue of the king's sign manual with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind, to convey such land, in the place of such trustee or mortgagee, to such person and in such manner as the said lord chancellor shall think proper; and every such conveyance shall he as effectual as if the trustee or mortgagee, being lunatic, had been of sane mind, memory, and

or may direct the committee to transfer stocks or funds standing in the name of a lunatic trustee, and receive the dividends.

understanding, and had made and executed the same, IV. That where any stock shall be standing in the name of any person who shall be a lunatic, as a trustee or executor, alone or jointly or other person with any other person, or shall continue to be standing in the name of a deceased person whose executor shall be lunatic, or shall be otherwise vested in or transferrable by any person who shall be lunatic, for the benefit of some other person, it shall be lawful for the lord chancellor, intrusted as aforesaid, to direct the committee of the estate of any such lunatic to transfer or join in transferring such stock to or into the name of such person and in such manner as the said lord chancellor shall think proper, and also to order such person appointed as aforesaid to receive and pay over or join in receiving and paying over the dividends of such stock in such manner as the said lord chancellor shall direct; and every such transfer, receipt, and payment shall be as effectual as if the person being lunatic had been of sane mind, memory, and understanding, and had transferred, received, and paid, or joined in transferring, receiving, and paying, such stock or dividends.

Lord chancellor, before inquisition, may appoint a person to convey or transfer.

V. That where any such person as aforesaid being lunatic shall not have been found such by inquisition, it shall be lawful for the lord chancellor, intrusted as aforesaid, to direct any person whom the said lord chancellor may think proper to appoint for that purpose, in the place of such last-mentioned lunatic, to convey or join in conveying such land, or to transfer or join in transferring such stock, and receive and pay over the dividends thereof, as herein-before is mentioned; and every such conveyance, transfer, receipt, or payment shall be as effectual as if the said person being lunatic had been of sane mind, memory, and understanding, and had made, done, or executed the same; but where any sum of money shall be payable to such lunatic, no such last-mentioned order shall be made if such sum of money shall

⁽¹⁾ See the statute relating to conveyances, &c., by lunatics, post, Part II. Class 6.

exceed seven hundred pounds; and where any sum not exceeding seven hundred pounds shall be payable to such lunatic, and any such order 1 W. 4, c. 60. shall be made, the lord chancellor, intrusted as aforesaid, shall direct 🕒 to whom and in what manner the money so payable shall be paid; and every payment made in pursuance of such direction shall effectually discharge the person paying the same from the money which he shall so pay.

No. III.

VI. That where any person seised or possessed of any land upon any Infant trustees trust or by way of mortgage shall be under the age of twenty-one years, or mortgagees it shall be lawful for such infant, by the direction of the court of chan-empowered to cery, to convey the same to such person and in such manner as the said convey by the court shall think proper; and every such conveyance shall be as effec- direction of the tual as if the infant trustee or mortgagee had been, at the time of court of chanmaking or executing the same, of the age of twenty-one years.

VII. That where any person seised or possessed upon any trust or by Infant trustees way of mortgage of any land situated within the duchy of Lancaster, or or mortgagees the counties palatine of Chester, Lancaster, and Durham respectively, of land within or the principality of Wales, shall be under the age of twenty-one years, the jurisdiction it shall be lawful for such infant, by the direction of the court of the of the courts of duchy chamber of Lancaster, the court of exchequer in the county Lancaster, palatine of Chester, the court of chancery in the county palatine of Chester, Durlancaster, the court of chancery in the county palatine of Durham, and ham, and the several courts of great session in Wales respectively, (1) as to premises Wales. within the jurisdiction of the same courts respectively, to convey such lands to such person and in such manner as the said courts respectively shall think proper, in like manner as such infant is herein-before em-

powered to convey the same by the direction of the court of chancery. VIII. That where any person seised of any land upon any trust shall When trustees be out of the jurisdiction of or not amenable to the process of the court of real estates of chancery, or it shall be uncertain, where there were several trustees, are out of the which of them was the survivor, or it shall be uncertain whether the jurisdiction, or trustee last known to have been seised as aforesaid be living or dead, it is uncertain or, if known to be dead, it shall not be known who is his heir; or if any whether they trustee seised as aforesaid, or the heir of any such trustee shall neglect trustee seised as aforesaid, or the heir of any such trustee, shall neglect who may be or refuse to convey such land for the space of twenty-eight days next the heir, the after a proper deed for making such conveyance shall have been ten-court of chandered for his execution by, or by an agent duly authorized by, any per-cery may apson entitled to require the same; then and in every or any such case it point a person shall be lawful for the said court of chancery to direct any person whom to convey. such court may think proper to appoint for that purpose, in the place of the trustee or heir, to convey such land to such person and in such manner as the said court shall think proper; and every such conveyance shall be as effectual as if the trustees seised as aforesaid, or his heir, had made and executed the same.

IX. That where any person possessed of any land for any term of When trustees years upon any trust shall be out of the jurisdiction of or not amenable of leasehold to the process of the court of chancery, or it shall be uncertain whether estates are out the trustee last known to have been possessed as aforesaid be living or of the jurisdicdead; or if any trustee possessed as aforesaid, or the executor of any tion, &c. such trustee, shall neglect or refuse to assign or surrender such land for the space of twenty-eight days next after a proper deed for making such assignment or surrender shall have been tendered for his execution by, or by an agent duly authorized by, any person entitled to require the same; then and in every or any such case it shall be lawful for the and court of chancery to direct any person whom such court may think proper to appoint for that purpose, in the place of the trustee or executor, to assign or surrender such land to such person and in such manner as the court shall think proper; and every such assignment or surrender shall be as effectual as if the trustee possessed as aforesaid, or his executor, had made and executed the same.

⁽¹⁾ The palatinate courts of Chester and the courts of great sessions in Wales are abolished by the I W. 4, c. 70. See post, Part IV. Class I.

No. III. Transfer of

stocks or funds.

X. That where any person in whose name as a trustee or executor 1 W. 4, c. 60. (either alone or together with the name of any other person), or in the name of whose testator, (whether as a trustee or beneficially,) any stock shall be standing, or any other person who shall otherwise have power to transfer or join with any other person in transferring any stock to which some other person shall be beneficially entitled, shall be out of the jurisdiction of or not amenable to the process of the court of chancery, or it shall be uncertain whether such person be living or dead; or if any such trustee or executor or other person shall neglect or refuse to transfer such stock, or receive and pay over the dividends thereof to the person entitled thereto or to any part thereof respectively, or as he shall direct, for the space of thirty-one days next after a request in writing for that purpose shall have been made to any such trustee or executor or other person by the person entitled as aforesaid, then and in every or any such case it shall be lawful for the court of chancery to direct such person as the said court shall think proper to appoint for that purpose, in the place of such trustee or executor or other person, to transfer or join in transferring such stock to or into the name of such person, and in such manner as such court shall direct, and also to order any person appointed as aforesaid to receive and pay over or join in receiving and paying over the dividends of such stock in such manner as the said court shall direct; and every such transfer, receipt, and payment shall be as effectual as if the said trustee or executor or other person had transferred or joined in transferring such stock, or had received and paid or joined in receiving and paying the said dividends. (1) (2)

Directions or orders of the court of chanlord chancelthis act, to be made upon petition.

XI. That every direction or order to be made in pursuance of this act by the lord chancellor intrusted as aforesaid, or by the court of chancery, or by any other court herein-before mentioned, shall be signified cery, or by the by an order to be made in any cause depending in such court respectively, or upon petition in the lunacy or matter; and such person as lor, &c., under herein-after is mentioned shall be the petitioner, whether such person be or be not under any legal disability; (that is to say,) if the same shall relate to a conveyance, transfer, receipt, or payment to or in such manner as may be directed by any person beneficially entitled, then upon the petition of the person or some or one of the persons beneficially entitled to the land, stock, or dividends to be conveyed, transferred received, or paid; and if the same shall relate to a conveyance in order to vest any land or stock in a new trustee duly appointed by virtue of some power or authority in some instrument creating or declaring the trusts of such land or stock, or by the court of chancery, either alone or together with any continuing trustee, then upon the petition either of the trustee or some or one of the trustees in whom the same shall be proposed to be vested, or of any person having an interest therein; and if the same shall relate to the conveyance of an estate in mortgage, then upon the petition of the person or some or one of the persons entitled to the equity of redemption thereof, or of the person or some or one of the persons entitled to the monies thereby secured, or the guardian or committee or some or one of the guardians or committees of the person entitled to such monies, if an infant or lunatic.

XII. Provided always nevertheless, and be it further enacted, That Lord chancellor or court may where, on account of the length of time which shall have elapsed since

⁽¹⁾ Where a decree declared a defendant against whom the bill had been taken pro confesso, to be a trustee of stock for the plaintiff, the court declined to refer it to the master to appoint a person to transfer the stock in the place of the defendant, except upon a petition presented under this statute. Fellowes v. Till, 5 Simons, 319.

⁽²⁾ A testator gave an annuity to his widow and the residue of his estate to his children. The executors paid the testator's debts and legacies, and purchased stock in their names to answer the annuity, and paid the dividends to the widow. One of the executors went to reside abroad and the Held, that they were trustees of the stock within this act. Ex parte Dover, other died. 5 Simons, 510.

the creation or last declaration of a trust, the title of the person claiming No. III. a conveyance or transfer may appear to require deliberate investigation 1 W. 4, c. 60. in the presence of all parties interested, in order to prevent the vesting of the legal estate in a person who may not really be entitled to the direct a bill to benefit thereof; or if under other circumstances it shall appear to the be filed to estalord chancellor, intrusted as aforesaid, or the court of chancery, or any blish the right. other court herein-before mentioned, not proper to make an order upon petition; it shall be lawful for such lord chancellor or any such court to direct a bill to be filed to establish the right of the party seeking the conveyance or transfer, and upon the establishment by a decree of such right, by the same decree, or any order in the cause or in the lunacy, or both, to direct a conveyance or transfer to be made according to the intent of this act. (1)

XII. That any committee, infant, or other person directed by virtue Committees, inof this act to make or join in making any conveyance or transfer or fants, &c. may receipt or payment, shall and may be compelled, by the order to be ob- be compelled to taind as herein-before is mentioned, to make and execute the same in convey, translike manner as trustees of full age, and of sane mind, memory, and un-fer, &c. derstanding, are compellable to convey, transfer, or receive and pay

over the trust estates or funds vested in them respectively.

XIV. That where the person or any of the persons to whom any money Mortgage shall be payable, in or towards the redemption or discharge of any money belongmortgage or incumbrance of which a release or conveyance shall be ob- ing to infants to tained under the powers of this act, shall be an infant, it shall be lawful be paid into the for the person by whom such money shall be payable to pay the same bank, or as the into the Bank of England in the name and with the privity of the ac-court shall countant general of the court of chancery or of the court of exchequer, direct. to be placed to his account in trust in any cause then depending in the said court concerning such money, or, if there shall be no such cause, to the credit of such infant, subject to the order and disposition of the said court respectively, or to such person or persons or in such other manner as the said court respectively shall direct; and the said court shall and is hereby empowered to order any money which shall so be paid into court to be invested in the public funds, and to order distribution thereof, or payment of the dividends thereof, as to the said court shall seem reasonable; and every cashier of the Bank of England who shall receive any such money is hereby required to give to the person paying the same a receipt for such money; and such receipt shall be an effectual discharge for the money therein respectively expressed to have been received.

XV. That every person, being in other respects within the meaning Act to extend of this act, shall be and be deemed to be a trustee within the meaning to trustees of this act, notwithstanding he may have some beneficial estate or having an ininterest in the same subject, or may have some duty as trustee to per-terest, or having form; but in every such case, and in every case of a mortgagee (not duty to perbeing a naked trustee), it shall be in the discretion of the said lord chancellor, intrusted as aforesaid, or the said court of chancery, if under the circumstances it shall seem requisite, to direct a bill to be filed to establish the right of the party seeking the conveyance or transfer, and not to make the order for such conveyance or transfer unless by the decree to be made in such cause, or until after such decree shall have been made.

XVI. That where any land shall have been contracted to be sold, Representaand the vendor or any of the vendors shall have departed this life, to be trustees either having received the purchase money for the same or some part within this act, thereof, or not having received any part thereof, and a specific perform- after a decree ance of such contract, either wholly or as far as the same remains to be for specific perexecuted, or as far as the same by reason of the infancy can be execu-formance; and

⁽¹⁾ The statute only applies to a cestui que trust who is named in the instrument upon which his title depends, or to a person who claims directly under a cestui que trust, so named, as real or personal representative, or as assignee. In the matter of Merry, 1 Mylne & Keen, 677.

No. III. persons in whose names purchases are made to be such trustees.

ted, shall have been decreed by the court of chancery in the lifetime of 1 W. 4, c. 60. such vendor or after his decease, and where one person shall have purchased an estate in the name of another, but the nominal purchaser shall, on the face of the conveyance, appear to be the real purchaser, and there shall be no declaration of trust from him, and a decree of the said court, either before or after the death of such nominal purchaser, shall have declared such nominal purchaser to be a trustee for the real purchaser, then and in every such case the heir of such vendor, or such nominal purchaser or his heir, in whom the premises shall be vested, shall be and be deemed to be a trustee for the purchaser within the meaning of this act.

Tenants for life. &c. of estates devised in settlement, and contracted to directed to convey, after a decree for specific performance.

XVII. That where any land shall have been contracted to be sold, and the vendor or any of the vendors shall have departed this life, having devised the same in settlement so as to be vested in any person for life or other limited interest, with any remainder, limitation, or gift over which may not be vested, or may be vested in some person from be sold, may be whom a conveyance of the same cannot be obtained, or by way of executory devise, and a specific performance of such contract, either wholly or so far as the same remained to be executed, shall have been decreed by the court of chancery, it shall be lawful for the court by whom such decree shall be made, by the same or any other decree, or any decretal order, or upon petition in the cause, to direct any such tenant for life or other person having a limited interest, or the first executory devisee thereof, to convey the fee simple or other the whole estate contracted to be sold to the purchaser, or in such manner as the said court shall think proper; and every such conveyance shall be as effectual as if the person who shall make the same were seised of the fee simple or other the whole estate contracted to be sold.

Act to extend to ting trusts, when declared by decree.

XVIII. That the several provisions herein-before contained shall other constructive trust, or trust arising or tive and resul- resulting by implication of law; but in every such case where the alleged trustee has or claims a beneficial interest adversely to the party seeking a conveyance or transfer, no order shall be made for the execution of a conveyance or transfer by such alleged trustee until after it has been declared by the court of chancery, in a suit regularly instituted in such court, that such person is a trustee for the person so seeking a conveyance or transfer; but this act shall not extend to cases upon partition, or cases arising out of the doctrine of election in equity, or to a vendor, except in any case herein-before expressly provided for. (1)

Husbands of to be decured trustees within the act.

XIX. That where any feme covert would be a trustee, mortgagee, female trustees heir, or executor within the provisions of this act, if she were an infant or lunatic, or out of the jurisdiction or not amenable to the process of the court of chancery or exchequer, or had refused or neglected as aforesaid to execute or make such conveyance, transfer, receipt, or payment as herein-before is mentioned, and the concurrence of her husband shall be necessary in any conveyance, transfer, receipt, or payment which ought to be made or executed by her as such trustee, mortgagee, heir, or executor, then and in any such case such husband, whether under any disability or not, shall be and be deemed to be a trustee within the meaning of this act.

Provisions as to lunacy to exsons compellable to convey.

XX. That the provisions herein-before contained for obtaining conveyances from any person being lunatic shall extend to and include all tend to all per- persons being lunatic who, by force of any law for payment of debts out of real estate, would or hereafter may be compellable to convey any land if of sound mind.

⁽¹⁾ Where a mortgagee in fee died intestate as to the mortgaged premises, but having bequeathed her personal estate to B, who presented a petition under this statute praying that some person might be appointed in the place of the mortgagee's heir, who could not be found to convey the premises to him. The court held the act was not intended to apply to such a case, and refused to make any order. In re Stanley, 5 Simons, 320.

XXI. That the provisions herein-before contained shall extend and be construed to extend to all cases of petitions in which the lord chan- 1 W. 4, c. 60. cellor, intrusted as aforesaid, or the court of chancery, or any of the judges thereof, is by law authorized and empowered to grant relief and Act to extend make summary orders without suit, either in matters of charity, or re- to petitions in lative to or for the better security, or for the application, receipt, pay-cases of charity ment, or transfer of any of the funds thereof, or in matters relative to and friendly any benefit or friendly societies, or for the better security, or for the societies. application, receipt, payment, or transfer of any of the funds thereof.

XXII. And whereas cases may occur, upon applications by petition Incertain cases under this act for a conveyance or transfer, where the recent creation the lord chanor declaration of the trust or other circumstances may render it safe cellor or court and expedient for the lord chancellor, intrusted as aforesaid, or the of chancery court of chancery, (as the case may require,) to direct, by an order upon may appoint such petition, a conveyance or transfer to be made to a new trustee or new trustees, trustees, without compelling the parties seeking such appointment to file a bill for that purpose, although there is no power in any deed or instrument creating or declaring the trusts of such land or stock to appoint new trustees; be it therefore further enacted, That in any such case it shall be lawful for the lord chancellor, intrusted as aforesaid, or the said court of chancery, to appoint any person to be a new trustee, by an order to be made on a petition to be presented for a conveyance or transfer under this act, after hearing all such parties as the said court shall think necessary; and thereupon a conveyance or transfer shall and may be made and executed, according to the provisions hereinbefore contained, to or so as to vest such land or stock in such new trustee, either alone or jointly with any surviving or continuing trustee, as effectually and in the same manner as if such new trustee had been appointed under a power in any instrument creating or declaring the trusts of such land or stock, or in a suit regularly instituted. (1)

XXIII. That where all the persons in whom any land may have been Court of chanvested, in trust for any charity or charitable or public purpose, shall be cery empowerdead, it shall be lawful for the court of chancery, on the petition of the per- ed to appoint sons or body administering such charity or superintending such public new trustees of purpose, or of any person on behalf thereof, to direct any master or other charities. officer of the said court to cause two successive advertisements to be inserted in the London Gazette and in one or more of the newspapers circulated in the county, city, or place where such land shall be situated, giving notice that the representative of the last surviving trustee do within twenty-eight days appear or give notice of his title to such master or other officer, and prove his pedigree or other title as trustee; and if no person shall appear to give such notice within such twenty-eight days, or the person who may appear or give such notice shall not, within thirty-one days after such appearance or notice, prove his title to the satisfaction of such master or other officer, then and in such case it shall be lawful for the said court to appoint any new trustees for such charity or charitable or public purpose; and such land may be conveyed to such new trustees by any person whom the said court respectively may direct for that purpose, by virtue of the provisions in this act, without the necessity of any decree.

XXIV. That where in any suit commenced or to be commenced in Manner of prothe court of chancery it shall be made to appear to the court by affidavit ceeding where that diligent search and inquiry has been made after any person made trustees, defena defendant who is only a trustee, to serve him with the process of the dants in equity, court, and that he cannot be found, it shall be lawful for the said court cannot be to hear and determine such cause, and to make such absolute decree found. therein against every person who shall appear to them to be only a trustee, and not otherwise concerned in interest in the matter in question, in such and the same manner as if such trustee had been duly

⁽¹⁾ A new trustee was appointed under this act without a reference to the master, the petitioner being the only person interested in the property. Ex parte Shick, 5 Simons, 281.

No. III.

served with the process of the court, and had appeared and filed his 1 W. 4, c. 60. answer thereto, and had also appeared by his counsel and clerk at the hearing of such cause: Provided always, That no such decree shall bind, affect, or in anywise prejudice any person against whom the same shall be made, without service of process upon him as aforesaid, his heirs, executors, or administrators, for or in respect of any estate, right, or interest which such person shall have at the time of making such decree, for his own use or benefit, or otherwise than as a trustee as aforesaid.

Costs may be directed to be paid.

XXV. That the lord chancellor, intrusted as aforesaid, and the court of chancery, may order the costs and expences of and relating to the petitions, orders, directions, conveyances, and transfers to be made in pursuance of this act, or any of them, to be paid and raised out of or from the land or stock or the rents or dividends in respect of which the same respectively shall be made, or in such other manner as the said lord chancellor or court shall think proper.

Powers given to the lord chancellor of Great Britain;

XXVI. That the powers and authorities given by this act to the lord chancellor of Great Britain, intrusted as aforesaid, shall extend to all land and stock within any of the dominions, plantations, and colonies belonging to his Majesty (except Scotland and Ireland).

which may be of Ireland.

XXVII. That the powers and authorities given by this act to the lord exercised by the chancellor of Great Britain, intrusted as aforesaid, shall and may be lord chancellor exercised in like manner by and are hereby given to the lord chancellor of Ireland, intrusted as aforesaid, with respect to all land and stock in Ireland.

Powers given to the lord chancellor to extend to the lord keeper and commissioners.

XXVIII. That the powers and authorities given by this act to the lord chancellor of Great Britain, intrusted as aforesaid, shall and may be exercised in like manner by and are hereby given to the lord keeper or commissioners of the great seal of Great Britain for the time being, intrusted as aforesaid; and the powers and authorities given by this act to the lord chancellor of Ireland, intrusted as aforesaid, shall and may be exercised in like manner by and are hereby given to the lord keeper or commissioners of the great seal of Ireland for the time being, intrusted as aforesaid.

Powers given chancery in England;

XXIX. That the powers and authorities given by this act to the court to the court of of chancery in England shall extend to all land and stock within any of the dominions, plantations, and colonies belonging to his Majesty (except Scotland).

which may be exercised by the court of exchequer.

XXX. That the powers and authorities given by this act to the court of chancery, and the provisions contained in this act relating to the said court, shall and may be exercised in like manner by and are hereby given and extended to the court of exchequer.

Powers given to ercised by the same courts in Ireland.

XXXI. That the powers and authorities given by this act to the courts courts in Eng- of chancery and exchequer in England, and the provisions contained in land may be ex- this act relating to the same courts, shall and may be exercised in like manner and are hereby given and extended to the several courts of chancery and exchequer in Ireland, with respect to all land and stock in Ireland.

Who shall be named in the orders of the court for making transfers.

XXXII. Provided always, and be it further enacted, That in all cases in which orders shall be made, in pursuance of this act, for the transfer of stock, the person to be named in such order for making such transfer shall either be the committee of the estate of the person being lunatic in whose place such transfer shall be made, or a co-trustee or co-executor of the person in whose place such person shall be directed to transfer, or some officer of the company or society in whose books the same respectively shall be directed to be made; and where such transfer shall be directed to be made in books kept by the governor and company of the Bank of England, such officer shall be the secretary or deputy secretary or accountant general for the time being of the said governor and company, or his deputy.

Act to be an indemnity to the bank and other companies.

XXXIII. That this act shall be and is hereby declared to be a full and complete indemnity and discharge to the governor and company of the Bank of England, and all other companies and societies, and their officers and servants, for all acts and things done or permitted to be No. III. done pursuant thereto, and that such acts and things shall not be 1 W. 4, c. 60. questioned or impeached in any court of law or equity to their prejudice or detriment.

[No. IV.] 3 & 4 W. IV. c. 104.—An Act to render Freehold and Copyhold Estates Assets for the Payment of Simple and Contract Debts. [29th August 1833.]

WHEREAS it is expedient that the payment of the debts of all persons should be secured more effectually than is done by the laws now in force; be it therefore enacted, &c., That from and after the Freehold and passing of this act, when any person shall die seised of or entitled to copyhold esany estate or interest in lands, tenements, or hereditaments, corporeal tates in all cases or incorporeal, or other real estate, whether freehold, customaryhold, to be assets for or copyhold, which he shall not by his last will have charged with or the payment of devised subject to the payment of his debts, the same shall be assets to be or specialty administered in courts of equity for the payment of the just debts of such debts. persons, as well debts due on simple contract as on specialty; and that the heir or heirs at law, customary heir or heirs, devisee or devisees of such debtor, shall be liable to all the same suits in equity at the suit of any of the creditors of such debtor, whether creditors by simple contract or by specialty, as the heir or heirs at law, devisee or devisees of any person or persons who died seised of freehold estates was or were before the passing of this act liable to in respect of such freehold estates at the suit of creditors by specialty in which the heirs were bound: Provided always, That in the administration of assets by courts of equity under and by virtue of this act all creditors by specialty in which the heirs are bound shall be paid the full amount of the debts due to them before any of the creditors by simple contract or by specialty in which the heirs are not bound shall be paid any part of their demands.

LNo. V.] 3 & 4 W. 4, c. 105.—An Act for the Amendment of the Law relating to Dower. [29th August 1833.]

RE it enacted, &c., That the words and expressions herein-after Meaning of the mentioned, which in their ordinary signification have a more con-words in the fined or a different meaning, shall in this act, except where the nature of act: the provision or the context of the act shall exclude such construction, be interpreted as follows; that is to say, the word "Land" shall "Land." extend to manors, advowsons, messuages, and all other hereditaments. whether corporeal or incorporeal (except such as are not liable to dower), and to any share thereof; and every word importing the Number. singular number only shall extend and be applied to several persons or things as well as one person or thing.

II. That when a husband shall die, beneficially entitled to any land Widows to be for an interest which shall not entitle his widow to dower out of the same entitled to at law, and such interest, whether wholly equitable, or partly legal and dower out of partly equitable, shall be an estate of inheritance in possession, or equal equitable to an estate of inheritance in possession, (other than an estate in estates. jointenancy,) then his widow shall be entitled in equity to dower out of

III. That when a husband shall have been entitled to a right of Seisin shall not entry or action in any land, and his widow would be entitled to dower be necessary to out of the same if he had recovered possession thereof, she shall be give title to entitled to dower out of the same although her husband shall not have dower. recovered possession thereof; provided that such dower be sued for or

the same land.

102 Miscellaneous Statutes concerning Real Estates.

obtained within the period during which such right of entry or action No. V.

3 & 4 W. 4, might be enforced.

' IV. That no widow shall be entitled to dower out of any land which c. 105. shall have been absolutely disposed of by her husband in his lifetime, or by his will. No dower out of estates disposed of.

Priority to partial estates, charges, and

Dower may be claration in a deed;

or by a declaration in the

Dower shall be subject to restrictions.

Devise of real estate to the widow shall

sonal estate to not bar her dower.

Agreement not to bar dower may be enforced.

Legacies in bar of dower still ference.

Certain dowers abolished.

Act not to take effect before 1834.

V. That all partial estates and interests, and all charges created by any disposition or will of a husband, and all debts, incumbrances, contracts, and engagements to which his land shall be subject or liable, specialty debts. shall be valid and effectual as against the right of his widow to dower.

VI. That a widow shall not be entitled to dower out of any land of barred by a de- her husband when in the deed by which such land was conveyed to him, or by any deed executed by him, it shall be declared that his widow shall not be entitled to dower out of such land.

VII. That a widow shall not be entitled to dower out of any land of which her husband shall die wholly or partially intestate when by the husband's will will of her husband, duly executed for the devise of freehold estates, he shall declare his intention that she shall not be entitled to dower out of such land, or out of any of his land.

> VIII. That the right of a widow to dower shall be subject to any conditions, restrictions, or directions which shall be declared by the will of her husband, duly executed as aforesaid.

IX. That where a husband shall devise any land out of which his widow would be entitled to dower if the same were not so devised, or any estate or interest therein, to or for the benefit of his widow, such bar her dower. Widow shall not be entitled to dower out of or in any land of her said Bequest of per- husband, unless a contrary intention shall be declared by his will.

X. That no gift or bequest made by any husband to or for the benefit the widow shall of his widow of or out of his personal estate, or of or out of any of his land not liable to dower, shall defeat or prejudice her right to dower, unless a contrary intention shall be declared by his will.

XI. Provided always, That nothing in this act contained shall prevent any court of equity from enforcing any covenant or agreement entered into by or on the part of any husband not to bar the right of his widow to dower out of his lands, or any of them.

XII. That nothing in this act contained shall interfere with any rule of equity, or of any ecclesiastical court, by which legacies bequeathed entitled to pre- to widows in satisfaction of dower are entitled to priority over other legacies.

> XIII. That no widow shall hereafter be entitled to dower ad ostium ecclesiæ, or dower ex assensu patris.

XIV. That this act shall not extend to the dower of any widow who shall have been or shall be married on or before the first day of January the 1st January one thousand eight hundred and thirty-four, and shall not give to any will, deed, contract, engagement, or charge executed, entered into, or created before the said first day of January one thousand eight hundred and thirty-four, the effect of defeating or prejudicing any right to dower.

> [No. VI.] 3 & 4 W. 4, c. 106.—An Act for the Amendment of the Law of Inheritance. [29th August 1833.]

Meaning of words in the act:

" Land."

RE it enacted, &c. That the words and expressions herein-after mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this act, except where the nature of the provision or the context of the act shall exclude such construction, be interpreted as follows; (that is to say,) the word "land" shall extend to manors, advowsons, messuages, and all other hereditaments, whether corporeal or incorporeal, and whether freehold or copyhold, or of any other tenure, and whether descendible according to the common law, or according to the custom of gavelkind or borough-English, or any

No. VI.

other custom. and to money to be laid out in the purchase of land, and to chattels and other personal property transmissible to heirs, and also 3 & 4 W. 4, to any share of the same hereditaments and properties or any of them, and to any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and to any possibility, right, or title of entry or action, and any other interest capable of being inherited, and whether the same estates, possibilities, rights, titles, and interests, or any of them, shall be in possession, reversion, remainder, or contingency; and the words "the purchaser" shall mean the person who "The purchalast acquired the land otherwise than by descent, or than by any ser." escheat, partition, or inclosure, by the effect of which the land shall have become part of or descendible in the same manner as other land acquired by descent; and the word "descent" shall mean the title to "Descent." inherit land by reason of consanguinity, as well where the heir shall be an ancestor or collateral relation, as where be shall be a child or other issue; and the expression "descendants" of any ancestor shall "Descendextend to all persons who must trace their descent through such ances-ants." tor; and the expression "the person last entitled to land" shall extend "Person last to the last person who had a right thereto, whether he did or did not entitled." obtain the possession or the receipt of the rents and profits thereof; and the word "assurance" shall mean any deed or instrument (other "Assurance." than a will) by which any land shall be conveyed or transferred at law or in equity; and every word importing the singular number only shall Number and extend and be applied to several persons or things as well as one per- gender. son or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

II. That in every case descent shall be traced from the purchaser; Descent shall and to the intent that the pedigree may never be carried further back always be than the circumstances of the case and the nature of the title shall re_ traced from the quire, the person last entitled to the land shall, for the purposes of this purchaser, but act, be considered to have been the purchaser thereof unless it shall be the last owner proved that he inherited the same, in which case the person from whom dered to be the inherited the same shall be considered to have been the purchaser purchaser, unuless it shall be proved that he inherited the same; and in like manner less the contrathe last person from whom the land shall be proved to have been inhe-ry be proved. rited shall in every case be considered to have been the purchaser, un-

less it shall be proved that he inherited the same.

III. That when any land shall have been devised, by any testator Heirentitled who shall die after the thirty-first day of December one thousand eight under a will hundred and thirty-three, to the heir or to the person who shall be the shall take as debeir of such testator, such heir shall be considered to have acquired the visee, and a land as a devisee, and not by descent; and when any land shall have limitation to the been limited, by any assurance executed after the said thirty-first day heirs shall of December one thousand eight hundred and thirty-three, to the person create an estate or to the heirs of the person who shall thereby have conveyed the same by purchase. land, such person shall be considered to have acquired the same as a purchaser by virtue of such assurance, and shall not be considered to

be entitled thereto as his former estate or part thereof.

IV. That when any person shall have acquired any land by purchase Where heirs under a limitation to the heirs or to the heirs of the body of any of his take by purancestors, contained in an assurance executed after the said thirty-first chase under day of December one thousand eight hundred and thirty-three, or un-limitations to der a limitation to the heirs or to the heirs of the body of any of his the heirs of ancestors, or under any limitation having the same effect, contained in the land shall a will of any testator who shall depart this life after the said thirty-first descend as if day of December one thousand eight hundred and thirty-three, then the ancestor, and in any of such cases such land shall descend, and the descent had been the thereof shall be traced as if the ancestor named in such limitation had purchaser. been the purchaser of such land.

V. That no brother or sister shall be considered to inherit immedi-shall trace deately from his or her brother or sister, but every descent from a brother scent through

or sister shall be traced through the parent.

c. 106.

their ancestor,

Brothers, &c. their parent.

VI. That every lineal ancestor shall be capable of being heir to any

chaser, his nearest lineal ancestor shall be his heir in preference to any person who would have been entitled to inherit, either by tracing his

descent through such lineal ancestor, or in consequence of there being

No. VI. 3 & 4 W. 4, of his issue: and in every case where there shall be no issue of the pur-

Lineal ancestor may be heir no descendant of such lineal ancestor, so that the father shall be prein preference to ferred to a brother or sister, and a more remote lineal ancestor to any of collateral persons claiming through him. The male line

his issue, other than a nearer lineal ancestor or his issue. VII. That none of the maternal ancestors of the person from whom the descent is to be traced, nor any of their descendants, shall be capable of inheriting until all his paternal ancestors and their deto be preferred. scendants shall have failed; and also that no female paternal ancestor of such person, nor any of her descendants, shall be capable of inheriting until all his male paternal ancestors and their descendants shall have failed, and that no female maternal ancestor of such person, nor any of her descendants shall be capable of inheriting until all his male

maternal ancestors and their descendants shall have failed.

The mother of more remote male ancestor to be preferred the less remote male ancestor.

VIII. That where there shall be a failure of male paternal ancestors of the person from whom the descent is to be traced, and their descendants, the mother of his more remote male paternal ancestor, or her descendants, shall be the heir or heirs of such person, in preference to to the mother of the mother of a less remote male paternal ancestor, or her descendants; and where there shall be a failure of male maternal ancestors of such person, and their descendants, the mother of his more remote male maternal ancestor, and her descendants, shall be the heir or heirs of such person, in preference to the mother of a less remote male maternal ancestor, and her descendants.

Half blood, if the whole on the part of a female ancestor, after her.

IX. That any person related to the person from whom the descent on the part of a is to be traced by the half blood shall be capable of being his heir; and male ancestor, the place in which any such relation by the half blood shall stand in to inherit after the order of inheritance, so as to be entitled to inherit, shall be next after any relation in the same degree of the whole blood, and his issue, same degree; if ancestor where the common ancestor shall be a male, and next after the common ancestor where such common ancestor shall be a female, so that the brother of the half blood on the part of the father shall inherit next after the sisters of the whole blood on the part of the father and their issue, and the brother of the half blood on the part of the mother shall inherit next after the mother.

After the death scendants may inherit.

X. That when the person from whom the descent of any land is to of a person at be traced shall have had any relation who, having been attainted, shall tainted, his de- have died before such descent shall have taken place, then such attainder shall not prevent any person from inheriting such land who would have been capable of inheriting the same, by tracing his descent through such relation, if he had not been attainted, unless such land shall have escheated in consequence of such attainder before the first day of January one thousand eight hundred and thirty-four.

Act not to extend to any descent before Jan. 1834.

XI. That this act shall not extend to any descent which shall take place on the death of any person who shall die before the said first day of January one thousand eight hundred and thirty-four.

Limitations person then living, shall take effect as if the act had

XII. That where any assurance executed before the said first day of made before the January one thousand eight hundred and thirty-four, or the will of any 1st Jan. 1834, person who shall die before the same first day of January one thousand to the heirs of a eight hundred and thirty-four, shall contain any limitation or gift to the heir or heirs of any person, under which the person or persons answering the description of heir shall be entitled to an estate by purchase, then the person or persons who would have answered such description of heir if this act had not been made shall become entitled by not been made. virtue of such limitation or gift, whether the person named as ancestor shall or shall not be living on or after the said first day of January one thousand eight hundred and thirty-four.

No. VII.

c. 23.

[No. VII.] 4 & 5 W. 4. c. 23.—An Act for the Amendment 4 & 5 W. 4, of the Law relative to the Escheat and Forfeiture of Real and Personal Property holden in Trust.

[27th June 1834.]

WHEREAS great inconvenience has been found to result to persons beneficially entitled to real or personal property by the escheating or forfeiture thereof to his Majesty, to corporations, to lords of manors, and others, in consequence of the death without heirs, or the conviction for treason or felony, of a trustee in whom or in whose name the same is vested: and whereas it is expedient that the same should be remedied: and inasmuch as, in order to avoid repetition, certain words are used in this act as describing subjects some of which, according to their usual sense, such words would not embrace; for the understanding of the sense attached to them in this act, be it therefore enacted, &c., That Description of the provisions of this act shall extend to and include the several estates estates and matand persons, matters and things herein-after mentioned; (that is to say,) ters included in those relating to land, to any manor, messuage, tenement, hereditament, the provisions or real property, whether freehold, customaryhold, copyhold, or of any of this act, and tenure whatever; those relating to chattels, to personal property of terms used. every description capable of being transferred or disposed of otherwise than in books kept by any company or society, or to any share thereof or interest therein; those relating to stock, to any fund, annuity, or security transferable in books kept by any company or society established or to be established, or to any money payable for the discharge and redemption thereof, or to any share or interest therein; those relating to dividends, to interest, or other annual produce; those relating to a conveyance, to any lease and release, surrender, or other assurance of real property, including all acts and deeds necessary for making and perfecting the same; those relating to an assignment, to any surrender, delivery, or other disposition of the personal property, and to all acts, deeds, and things necessary for making and perfecting the same; those relating to a transfer, to any payment or other disposition of stock; those relating to an heir, to any devisee or other real representative, by the common law, or by custom, or otherwise; and those relating to any executor, to any administrator or other personal representative; unless there be something in the subject or context repugnant to such construction; and whenever this act, in describing or referring to any trustee or other person, or any trust, land, stock, conveyance, assignment, transfer, grant, matter, or thing, uses the word importing the singular number or the masculine gender only, the same shall be understood to include and shall be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and several trusts, lands, stocks, conveyances, assignments, transfers, grants, matters, or things respectively as well as one trust, land, stock, conveyance, assignment, transfer, grant, matter, or thing respectively, unless there be something in the subject or context repugnant to such construction.

II. That where any person seised of any land upon any trust or by If trustee or way of mortgage dies without an heir, it shall be lawful for the court of mortgagee of chancery to appoint a person to convey such land in like manner as is any land die provided by the act of the eleventh year of king George the fourth and without an heir, the first year of his present Majesty, intituled An Act for amending the the court of Laws respecting Conveyances and Transfers of Estates and Funds vested chancery may in Trustees and Mortgagees, and for enabling Courts of Equity to give appoint a pereffect to their Decrees and Orders in certain Cases, in case such trustee son to convey. or mortgagee had left an heir, and it was not known who was such heir; and such conveyance shall be as effectual as if there was such heir.

III. That no land, chattels, or stock vested in any person upon any Lands, &c. trust or by way of mortgage, or any profits thereof, shall escheat or be trustee shall forfeited to his Majorty, his hoirs or augustages on the arrangement of trustee shall forfeited to his Majesty, his heirs or successors, or to any corporation, not be esche

No. VII.

lord of a manor, or other person, by reason of the attainder or convic-4 & 5 W. 4, tion for any offence of such trustee or mortgagee, but shall remain in such trustee or mortgagee, or survive to his co-trustee, or descend or vest in his representative, as if no such attainder or conviction had ed by reason of taken place.

the attainder or conviction of such trustee.

To whom and to what cases extend.

IV. That the several provisions of this act shall extend to every case of a trustee having some beneficial estate or interest in the same subject, the provisions or some duty as trustee to perform, and also to every case of a trust of this act shall arising or resulting by implication of law or by construction of equity.

This act not to prevent the beneficial interest.

V. Provided always, That nothing contained in this act shall prevent the escheat or forfeiture of any land, chattels, or stock vested in any escheat of any such trustee or mortgagee, so far as relates to any beneficial interest therein of any such trustee or mortgagee, but such land, chattels, or stock, so far as relates to any such beneficial interest, shall be recoverable in the same manner as if this act had not passed.

Where any pertrustee shall have died without heirs, or have been convicted, before the passing of this act, the lands, &c., shall become subject to the control of the cery.

VI. And whereas it is expedient to relieve persons beneficially entitled son possessing to real or personal property which has already escheated or become lands, &c., as a forfeited to his Majesty, to corporations, to lords of manors, or others, by any of the means aforesaid; be it therefore enacted, That in all cases where before the passing of this act any person possessed of or entitled to any land, chattels, or stock, or any right to or interest in any land, chattels, or stock, as a trustee thereof, either in whole or in part, or jointly with some other trustee or trustees, shall have died without an heir, or shall have been convicted of any offence whereby the said land, chattels, or stock, or any of them, have escheated or been forfeited, or have become subject to any escheat or forfeiture, then and in every or any such case the said land, chattels, or stock, or the right thereto or interest therein which hath escheated or been forfeited, or become subcourt of chan-ject to escheat or forfeiture by reason thereof, shall be subject to the order, control, and disposition of the court of chancery, for the use of the party beneficially interested therein, in such manner, and subject in all respects to such rights and incidents, and to such orders and regulations of the said court, under the provisions of the said act of the eleventh year of king George the fourth and of the first year of his present Majesty, as if such person so dead without an heir, or so convicted, as aforesaid, were out of the jurisdiction of or not amenable to the process of the said court, without having been so convicted: Provided always, that nothing in this clause contained shall extend to any land, chattels, or stock now vested in any person by virtue of any grant thereof made subsequently to the time when such escheat or forfeiture first occurred, or to any land, chattels, or stock which more than twenty years prior to the passing of this act shall have been actually vested in possession or reduced into possession by the party entitled thereto by virtue of any such escheat or forfeiture.

Proviso.

[By the 39 & 40 G. 3, c. 88. 47 G. 3, st. 2, c. 24, & 59 G. 3, c. 94. (See Evans's Stat. Part II. Class 12.) the crown was empowered to direct the execution of any trusts, to which lands becoming vested in it, by escheat for want of heirs, or by forfeiture might be subject, and to make grants for such purposes, or for restoring them to the family, &c., and that either unconditionally or on payment of any sum of money, or to grant the lands to trustees, to be sold and the money applied as the crown should direct. Under these statutes an inquisition was necessary to find the right of the crown, before a grant could be made, and one of the objects of the above act was to supersede the necessity of such inquisition and grant, by enabling the court of chancery to order the estate to be conveyed according to the provisions of the 11 G. 4, & 1 W. 4, c. 60, ss. 8, 9, 11 (see ante, p. 96.)

Class I.] Miscellaneous Statutes concerning Real Estates.

[No. VIII.] 4 & 5 W. IV. c. 29.—An Act for facilitating the Loan of Money upon Landed Securities in Ireland. (1) [25th July 1834.]

4 W. 5, c. 29.

No. VIII.

WHEREAS in last wills and other testamentary dispositions, and in marriage and other settlements of real and personal property, and in other deeds, agreements, or writings, a direction, trust, or power is often given, created, or reserved to lay out or invest money at interest on real securities, in England, Wales, or Great Britain, or to sell and convert into money real or leasehold estates, or government or parliamentary securities, or securities of foreign states, or other property, and to lay out or invest the money arising from such sale and conversion on real securities: And whereas from the abundance of capital in Great Britain the interest of money is very much reduced, and the interest to be procured on money in Ireland is much higher than the interest to be procured on money in Great Britain: And whereas manifest improvement has taken place in the condition and security of landed property in Ireland, which it is desirable to encourage and advance: And whereas it would be highly beneficial to both Great Britain and Ireland if the loan of money on landed securities in Ireland was facilitated: Be it therefore enacted, &c. That from and after the passing of this act it Power to lend shall be lawful for any person or persons who, under or by virtue of money on real any direction, trust, or power already given, created, or reserved, or securities in hereafter to be given, created, or reserved as aforesaid, is or are or Ireland the shall be authorized or directed to lend money at interest on real secu-same as in Engrities, in England. Wales, or Great Britain, to lend the same or any land, &c. rities, in England, Wales, or Great Britain, to lend the same or any part thereof at interest on real securities in Ireland in the same manner in all respects as if such investment had been expressly authorized in or by such direction, trust, or power as aforesaid; and such person or persons shall not, on account of his or their so lending money on real securities in Ireland, be considered in a court of equity guilty of any breach of trust, or held accountable further or otherwise than if the money had been laid out by him or them on real securities in England, Wales, or Great Britain.

II. Provided always, That all loans of money on real securities in Proviso for Ireland under this act in which any minor or unborn child or person of loans where unsound mind is or may be interested shall be made by the direction minors, &c. are and under the authority of the court of chancery or exchequer in interested. England, such direction or authority being obtained in any cause upon

petition in a summary way.

III. That in all cases of trustees or public bodies lending money on Loans by trusreal securities in Ireland under the authority of this act, it shall be tees, or public lawful for any court of equity in England to make all such orders and bodies. decrees for enforcing payment of the principal and interest thereby secured, or any part thereof, as if the said lands and hereditaments were situate in England or Wales; and it shall be lawful for the party or parties obtaining such orders or decrees to cause a copy of such orders or decrees, under the seal of the court by which the same shall have been made, to be exemplified, and certified to the lord chancellor, lord keeper or lords commissioners of the great seal of Ireland for the time being, or to the barons of his Majesty's court of exchequer in Ireland, whereon the said lord chancellor, lord keeper or lords commissioners for the custody of the said great seal of Ireland, or the said berons of the said court of exchequer in Ireland, shall forthwith cause such copy of such order or decree, when it shall be presented to them respectively so exemplified, to be enrolled, either in the rolls of the court

⁽¹⁾ The object of this act is to enable trustees or public bodies to lend money on real securities in Ireland, although the trust or power under which they act only authorizes the money to be invested in England, Wales, or Great Britain. By the 14 G. 3, c. 79, s. 2, the legal rate of interest in Ireland is 6 per cent. See the statute and the 1 & 2 G. 4, c. 51. Evans's Statutes Part III. Class, 5, Usury.

Miscellaneous Statutes concerning Real Estates. [Part II.

No. VIII. 4 & 5 W. 4, c. 29.

of chancery or in the said court of exchequer, as the case may be, and shall cause all such process to issue against the said lands and hereditaments comprised in the said securities, and the party or parties against whom such decrees or orders shall be obtained, and his, her, or their real and personal estate, goods, chattels, and effects, in Ireland, in order to enforce obedience to and performance of the same, in such manner and form, and with such force and effect, as if the cause wherein such order or decree shall have been made had been originally cognizable by and instituted in the said courts of chancery or exchequer in Ireland; and it shall be lawful for the said lord chancellor, lord keeper or lords commissioners of the great seal in Ireland, or the said barons of the said court of exchequer in Ireland, to make such order or orders in respect of or consequent upon such process against the party or parties, or in respect of the said lands, or the real and personal estate, goods, chattels, or effects of the said party or parties, as he or they shall from time to time think fit, or for payment of all or any of the monies levied or received by virtue thereof into the Bank of Ireland, with the privity of the accountant general of the said courts of chancery and exchequer in Ireland respectively, to the credit or for the benefit of the party or parties who shall have obtained such order or decree, or to the credit of the cause in which such order or decree shall have been made; and the governor and company of the Bank of Ireland are hereby authorized and required to receive and hold all such monies, subject to the orders of the said court of chancery in Ireland: Provided always, That no such monies shall be charged with or subject to poundage for the usher of the said court of chancery in Ireland, or otherwise, where the same shall be paid out by order of the said lastmentioned court: And provided always, That no security for costs shall be required to be given in Ireland by any party or parties enforcing in manner aforesaid the execution of such orders or decrees of any court of equity in England as herein-before mentioned.

Consent of perto be had.

IV. Provided always, that every such loan shall be made with the sons interested consent of the person or persons, if any, whose consent may be required as to the investment of such money upon real securities in England, Wales, or Great Britain, testified in the manner required by such direction, trust, or power.

To what cases act not to extend.

V. Provided also, That the provisions of this act shall not apply to any case in which such direction, trust, or power as aforesaid doth or shall or may contain any express restriction against the investment of such money as aforesaid on securities in Ireland.

Act not to relieve persons intrusted with trust or power from resposibility as to title, &c.

VI. Provided always, That nothing contained in this act shall relieve or be construed to relieve any person or persons intrusted or clothed with such direction, trust, or power as aforesaid from any responsibility as to title, security, or otherwise either at law or in equity, save that having lent and advanced such money as aforesaid on real securities in Ireland instead of having invested such money on real securities in England, Wales, or Great Britain.

[No. IX.] 4 & 5 W. 4, c. 30.—An Act to facilitate the Exchange of Lands lying in Common Fields.

[25th July 1834.]

WHEREAS it is expedient to facilitate the exchange of pieces of land lying intermixed and dispersed in common fields, meadows, or pastures, for other pieces ef land, either lying therein, or being part of the inclosed lands in the same or any adjoining parish: may it therefore Proprietors of please your Majesty that it may be enacted; and be it enacted, That lands in com- from and after the passing of this act it shall be lawful for any person mon fields may who shall be seised or possessed of or entitled in possession to any land in any common field, as tenant in fee simple, or in fee tail, general or special, or for life or lives, or by the curtesy of England, or for any

exchange the same.

Class I.] Miscellaneous Statutes concerning Real Estates.

other estate of freehold, or for years determinable on any life or lives, or for any term of years whereof one hundred years shall be unexpired, and for the guardian, trustee, feoffee for charitable or other uses, husband, or committee of such person who at the time of making any exchange authorized by this act shall be an infant, idiot, lunatic, or feme covert, or under any other disability, by such deed and with such consent as herein-after mentioned to grant and convey such land or any part thereof to any other person in lieu of and in exchange for any other land, whether lying in the same or any other common field, or for any inclosed land lying within the same or any adjoining parish, and to accept and take from such other person any land in lieu of and in exchange for the land in such common field.

II. That it shall be lawful for any person who shall be seised or pos- All persons sessed of or entitled in possession to any land which it may be desirable enabled to give to exchange for the land in such common field, whether such person land in exshall be tenant in fee simple, or in fee tail, general or special, or for life change for such or lives, or by the curtesy of England, or for any other estate of free-common field hold, or for years determinable on any life or lives, or for any term of land. years whereof one hundred years shall be unexpired, and for the guardian, trustee, feoffee for charitable or other uses, husband, or committee of such person who shall be an infant, idiot, lunatic, or feme covert, or under any other disability, to consent and agree to such exchange, and to grant and convey such land to the person proposing to make such exchange in lieu of and in exchange for the land lying in such common

field, subject to the provisions herein-after contained.

III. Provided always, That when any such exchange shall be made Land given in by any person having a less estate or interest than in fee simple in the exchange by land to be by him granted or conveyed in exchange, or shall be made persons having by any person under any disability, the land to be so taken in exchange limited interests shall at the time of making such exchange be, or shall by the payment to be of equal of a sufficient sum for equality of exchange be made, of equal value with lands taken. or not of less value than the land to be granted or conveyed inexchange.

IV. That whenever any exchange shall be proposed to be made under the authority of this act, and either of the parties thereto shall have a If exchange less estate or interest in the land to be by him granted or conveyed in made by any exchange than a fee simple, or shall be under any disability, such person having exchange shall not be completed unless the person to whom the next only a limited immediate vested estate of freehold in remainder or reversion shall have interest, or been limited (provided such person shall be of the full age of twenty-being under one years, and being a female shall be unmarried,) shall consent thereto, and shall testify such consent by signing the draft deed of exchange person next in herein-after mentioned, and such consent shall be sufficient for the purpose of sutherizing such exchange potriithetending the person giving pose of authorizing such exchange notwithstanding the person giving obtained. the same may have an equitable estate only in the land intended to be conveyed in exchange, or may have previously disposed of or charged or incumbered his reversionary estate therein: Provided always, that if the person to whom such next immediate vested estate in remainder or In case the perreversion may have been limited shall at the time of such exchange son next in rehappen to be an infant or feme covert, or an idiot or lunatic, then and mainder should in such case it shall be lawful for the guardian or husband or committee be an infant, of such infant, feme covert, idiot, or lunatic (such guardian, husband, or &c. committee not being himself the person by whom the exchange is proposed to be made) to consent to such exchange, and to sign the draft deed of exchange in his or her stead; Provided further, that whenever the guardian or husband or committee of such infant, feme covert, idiot, or lunatic shall himself be the person by whom such exchange is proposed to be made, then and in such case it shall be lawful for the court of chancery, upon petition, to be preferred to the said court in a summary way, to appoint a person to act as protector to such infant, feme covert, idiot, or lunatic for the purposes of this act, and, if he shall think fit so to do, to consent to such exchange, and to sign the draft

No. IX. 4 & 5 W. 4, c. 30.

110

Miscellaneous Statutes concerning Real Estates. [Part II.

deed of exchange in the stead of such infant, feme covert, idiot, or No. IX. 4 & 5 W. 4, lunatic, or of his or her guardian, husband, or committee.

c. 30. Consent of patron and bishop necessary for exchange of land held in right of a church.

V. Provided always, That no exchange shall be made of any land held in right of any benefice, without the consent of the patron thereof, and of the archbishop or bishop to whose ordinary or peculiar jurisdiction the said benefice may be subject, such consent to be signified by the patron and archbishop or bishop respectively signing the draft deed of exchange herein-after mentioned; and such consent, when so given and signified, shall be a sufficient authority for such exchange, any law or statute to the contrary notwithstanding: Provided always, That if the patronage of such benefice shall happen to be in the crown, and the benefice shall exceed the yearly value of twenty pounds in the king's books, it shall be lawful for the lord high treasurer or the first lord commissioner of the treasury for the time being, but if it shall not exceed the yearly value of twenty pounds in the king's books, then for the lord high chancellor, lord keeper, or lords commissioners of the great seal for the time being, to consent to such exchange and to sign the draft deed of exchange on behalf of the crown, and if the patronage of such benefice shall happen to be in the crown in right of the duchy of Lancaster it shall be lawful for the chancellor for the time being of the said duchy to consent to such exchange and to sign the draft deed of exchange on behalf of the crown; and if the patronage of such benefice shall be part of the possessions of the duchy of Cornwall it shall be lawful for the duke of Cornwall for the time being, if of full age, but if not of full age, or in case such benefice shall be within the patronage of the crown in right of the duchy of Cornwall, then for the same person who is hereinbefore authorized to consent on behalf of the crown in respect of a benefice in the patronage of the crown to consent to such exchange and to sign the draft deed of exchange on behalf either of the duke of Cornwall, or, as the case may be, on behalf of the crown in right of the duchy of Cornwall; and if the patron of such benefice shall happen to be a minor, idiot, lunatic, or feme covert, it shall and may be lawful for the guardian, committee, or husband of such patron to consent to such exchange and to sign the draft deed of exchange in the stead of such patron, and on his or her behalf.

Draft deed of by ecclesiastical person or corporation consenting.

VI. Provided always, That no exchange shall be made under the exchange to be authority of this act by any bishop, dean, or other head of a chapter, signed or sealed archdeacon, prebendary, or other ecclesiastical corporation sole, unless, in the case of a bishop, with the consent of the archbishop of the province, to be signified by such archbishop signing the draft deed of exchange herein-after mentioned, or unless, in the case of a dean or other head of a chapter, with the consent of the chapter, to be signified by their affixing their common seal to the said draft deed of exchange, or unless, in the case of an archdeacon, prebendary, or other ecclesiastical corporation sole, with the consent of the archbishop or bishop of the diocese, to be signified by such archbishop or bishop signing the said draft deed of exchange.

Exchange to be made in the the schedule.

VII. That every exchange under the authority of this act shall be made according to the form in the schedule to this act annexed. or as form given in near thereto as the number of parties and the circumstances of the case will admit, and shall, when executed by the respective parties, be valid and effectual in the law to all intents and purposes, without livery of seisin made or taken, or any other act done, by any person or party to perfect or complete the same.

In case of deed of exchange to be entered on the court rolls.

VIII. Provided always, That whenever any land held by copy of copyholds, the court roll shall be exchanged under the authority of this act, the deed of exchange, when executed by the respective parties, shall be produced to the lord of the manor of which the land may be parcel, or to his steward, or to the deputy of such steward, who shall cause the same to be entered on the court rolls of the manor.

Fees to stewards.

IX. That the fees and charges to be demanded by and paid to any.

Class I.] Miscellaneous Statutes concerning Real Estates.

steward of a manor for entering on the court rolls of such manor any deed of exchange or other instrument required by this act to be entered 4 & 5 W. 4, thereon shall not exceed the sum of sixpence for every law folio of

seventy-two words contained in such deed or other instrument. X. That whenever any exchange shall be made under the authority of In case of

this act by any archbishop, bishop, dean or other head of a chapter, church lands, dean or other head of a chapter and chapter, archdeacon, prebendary, deed to be enor other ecclesiastical corporation, or by the incumbent of any benefice, tered in the prothe deed of exchange, when executed by the respective parties, shall, in per ecclesiastithe case of the exchange being made by an archbishop or bishop, be cal registry. entered in his own registry, and in the case of the exchange being made

by a dean or other head of a chapter, or by a dean or other head of a chapter and chapter, be entered in the registry of such chapter, and in the case of the exchange being made by an archdeacon, prebendary, or

other ecclesiastical corporation, or by the incumbent of a benefice, be entered in the registry of the bishop of the diocese.

XI. That an office copy of any deed of exchange or other instrument Office copies of which under the provisions of this act shall be entered on any such instruments deregistry as aforesaid (such office copy being certified by the registrar or posited in the his deputy) shall be allowed as evidence thereof in all courts and registry to be places, and every person shall be entitled to require any such office evidence. copy, and shall also be allowed at all usual and proper times to search for and inspect any deed of exchange or other instrument which shall be so entered; and the registrar shall be entitled to charge for the entry of every such deed of exchange or other instrument after the rate of sixpence for every law folio of seventy-two words contained therein, and the sum of one shilling, and no more, for allowing any such search or inspection as aforesaid, and after the rate of sixpence for every law

folio of seventy-two words in any office copy to be made and certified as

aforesaid.

XII. That before any exchange shall be made under the authority of Draft of inthis act a draft of the intended deed of exchange, containing a correct tended exdescription of the several lands proposed to be exchanged, and signed change to be by the respective parties, and also by the several persons whose consent deposited with to such exchange is herein-before required to be given, and accom- the clerk of the panied by an estimate of the value as well of the land proposed to be peace, and nogiven as of the land proposed to be taken in exchange, and whenever serted in some the exchange shall be proposed to be made by or with any person under newspaper cirdisability, then accompanied also by a copy of the several limitations culating in the contained in the deed or will under which such person may be entitled, county. shall be deposited with the clerk of the peace of the county in which the greater part of the land may be situated; and a notice of such draft and estimate having been so deposited (such notice containing a description of the land intended to be exchanged) shall be published in some newspaper usually circulated in the county wherein such land is situated at three several times in three successive months after such draft and estimate shall have been so deposited: Provided always, That Proviso as to whenever a corporation aggregate shall be one of the parties to such certain corporaproposed exchange, or the consent of a corporation aggregate shall be tions. necessary thereto, the affixing of the common seal of such corporation to such draft deed of exchange shall be deemed a sufficient compliance with the provisions of this act.

XIII. That if any person claiming to have an interest in the land Persons having proposed to be exchanged shall object to such exchange, it shall be any objections lawful for him to state such objection in writing, and to deposit the to deposit them same with the clerk of the peace at any time not less than fourteen with the clerk days before the holding of the assizes at which such proposed exchange of the peace shall be taken into consideration as herein-after mentioned; and such within a certain draft deed of exchange, and estimate, and copy of limitations, and the said time. statement of objection, shall be open to the inspection of any person.

XIV. That the justices of the peace for the several counties, ridings, Fees to be taken divisions, cities, towns, liberties, and precincts within England and by clerks of the

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No. IX. **c.** 30.

Wales, shall in the manner directed by an act passed in the fifty-seventh 4 & 5 W. 4, year of the reign of King George the Third, intituled An Act to enable Justices of the Peace to settle the Fees to be taken by the Clerks of the Peace of the respective Counties and other Divisions of England and Wales, ascertain, make, and settle a table of fees and allowances to be taken by the clerks of the peace for such counties, ridings, divisions, cities, towns, liberties, and precincts, for their trouble in the execution of the duties imposed upon them by this act, and such fees shall be subject to alteration and regulation in the manner by the said act directed.

Clerk of the shall appoint a barrister to consider the same.

Barrister may summon witnesses.

False swearing perjury.

Barrister to examine witnesses, and detions.

After inquiry certify as the case may be.

In case of an exchange in which there one-fifth.

Certificate_with shall make order thereupon.

XV. That the clerk of the peace shall cause the said draft deed of peace to cause exchange, estimate, and statement of objection (if any), and all other the draft deed, papers relating thereto, to be laid before the senior judge of nisi prius &c., to be laid at the assizes to be holden next after the expiration of three months before a judge from the time of the deposit of such draft deed of exchange with the of assize, who clerk of the peace as aforesaid; and such judge shall appoint a barrister, of not less than five years standing, for taking into consideration the said draft deed and statement, who shall forthwith appoint a time for that purpose.

XVI. That such barrister shall be empowered to summon and to compel the attendance of witnesses, and to administer an oath; and that any person wilfully swearing falsely before such barrister shall be

liable to all the penalties of wilful perjury.

XVII. That such barrister shall satisfy himself, by the production of deeds, the examination of witnesses, or by such other evidence as he shall think fit to require, of the value of the lands proposed to be termine object exchanged, and that the person proposing to make such exchange is not under any disability, or if he is that the person stated to have the next immediate vested estate of freehold in reversion or remainder has such estate, and that the notices and the consents required by this act have been duly given; and such barrister shall hear and determine all objections (if any) which may have been made by any person claiming to have an interest in the land proposed to be exchanged.

XVIII. That after such inquiry shall have been had before such barthe barrister to rister he shall grant a certificate under his hand, in which he shall state that the parties proposing to make such exchange are not under any disability, or if they are, or either of them is under disability, that the persons or person having the next immediate vested estate of freehold in remainder or reversion have concurred therein, that the persons whose consents are required under this act have consented to the exchange, and that the equality and fairness of the proposed exchange have been proved, or otherwise, as the case may be; and he shall suggest in such certificate such alterations as to him may seem expedient for the better protecting the rights of parties having an interest in the lands proposed to be exchanged.

XIX. That in any case of an exchange to be made under this act in which there shall be a difference of not more than one-fifth in the value of the lands proposed to be exchanged, it shall be lawful for the said shall be a dif-barrister to allow or insert a provision in such exchange for the payference in value ment in money of such difference in value: Provided always, That no of not more than exchange shall be made under the authority of this act in which there shall be a difference of more than one-fifth part in the value of the

lands proposed to be exchanged.

XX. That the said certificate, together with the said draft deed of draft deed, &c. exchange, and estimate, and such statement of objections, if any, and to be laid before all other papers relating thereto, shall be laid before the said judge of the judge, who assize, who shall thereupon make such order therein, either for confirming the said exchange, or for annulling the same, or for altering the same, as to him may seem expedient; and the said draft deed of exchange when so confirmed or altered by the said order shall be immediately engrossed and executed by the necessary parties, and shall, when so executed, be binding upon the owners and proprietors of the

Class I.] Miscellaneous Statutes concerning Real Estates.

pieces of land so exchanged, and all other parties interested therein: No. VIII. Provided always, That before making such final order it shall be lawful 4 & 5 W. 4, for such judge to institute or cause to be instituted such further inquiry, by the means aforesaid, into the several matters relating to any such agreement, as he may think necessary.

Judge may institute further inquiry.

XXI. Provided also, That such barrister shall further certify to the Costs and said judge by whom and in what proportions the costs and charges of charges of prosuch proceedings relative to such agreement ought to be borne, and ceedings. thereupon the said judge shall make such order for payment of such costs and charges as he may think right: Provided always, That in the case of any disagreement respecting the amount of such costs, such costs shall be taxed by the master or secondary of the court of king's bench.

XXII. That every barrister before whom any inquiry shall be had Remuneration under the authority of this act shall be entitled to be paid at the rate of to barrister. five guineas for every day that he shall be employed in making such inquiry, over and above his travelling and all other expences; and every such barrister shall after the termination of such inquiry transmit a statement of the number of days during which he shall have been so employed, and an account of the travelling and all other expences incurred by him in repect of such employment, to the judge by whom he shall have been appointed, or, in case of the death or illness or retirement of such judge, to any other judge of the superior courts of record at Westminster, who shall examine and allow the same, or so much or such parts thereof as he shall see fit; and the same when so allowed shall be paid in the same manner as the other costs and charges incident to such exchange are herein-before directed to be paid: Provided always, That if more than one case of exchange shall be referred to the same barrister, the remuneration to such barrister shall not be cumulative, but shall be considered as fixed for the day and not for the case.

XXIII. That in case any money shall be directed to be paid by either Application of party to the other of them for equality of exchange, and the party to money paid for whom such money shall be directed to be paid shall (in case it shall equality of exexceed the sum of twenty pounds) be paid with all convenient speed change when into the bank of England in the name and with the privity of the party entitled accountant general of the court of chancery, to be placed to his account disability. there ex parte the person entitled to the rents and profits of the land for or in respect of which such money shall be payable, to the intent that such money shall be applied, under the direction of the court, to be signified by an order made in a summary way upon a petition to be preterred by or on behalf of the person who would have been entitled to the rents and profits of the said land, either in the purchase or redemption of the land tax, or in discharging any debt or incumbrance affecting the said land, or affecting any other lands standing settled therewith to the same or the like uses, or in the purchase of other lands, which shall be conveyed to the same or the like uses, or such of them as shall be then subsisting and capable of taking effect; and in the meantime and until such purchase shall be made the said money shall, by order of the said court, upon application thereto, be invested by the said accountant general in his o me in some of the public funds, and the dividends thereof shall fr m time to time be paid to the person who would have been entitled to the rents of the land so to be purchased and settled; but in case such money shall not exceed the sum of twenty pounds, then the same shall be paid to the person entitled to the rents and profits of the land for or in respect of which the same may be payable, or in case of infancy, lunacy, idiotcy, or coverture, to his or her guardian, committee, or husband, as the case may be.

XXIV. That from and immediately after such deed of exchange as Lands given in herein-before is mentioned shall have been duly executed by the neces- exchange to be

exonerated from the uses affecting them ject to such uses as affected the lands taken.

After exchange evicted.

sary parties, the land which by such deed is given in exchange shall be 4 & 5 W. 4, exonerated and discharged from the uses, trusts, powers, conditions, limitations and restrictions, charges and incumbrances then affecting the same, and shall be and become subject to such and the same uses. trusts, powers, conditions, limitations and restrictions, charges and incumbrances, as affected the land taken in exchange at the same date; and the land so taken in exchange shall be exonerated and discharged at the time, and from all uses, trusts, powers, conditions, limitations and restrictions, to become sub- charges and incumbrances then affecting the same, and shall be and become subject to such and the same uses, trusts, powers, conditions, limitations and restrictions, charges and incumbrances as affected the lands given in exchange at the same time.

XXV. That no person to whom any land shall have been granted or party not to be conveyed in exchange according to the provisions of this act shall at any time thereafter be evicted from the peaceable and quiet possession of such land by reason or in consequence of any person claiming right thereto through any title prior to that of, or through any defect of title in, the person by whom such land may have been granted or conveyed: but nevertheless it shall be lawful for the person claiming such right, and he is hereby authorized and empowered, to use, exercise, and enjoy all such and the same powers and remedies in trying his right to and in obtaining and recovering possession of the land which shall have been granted or conveyed in exchange as the person so claiming would in case this act had not been made have been enabled to use, exercise, or enjoy in trying the right to and recovering the possession of the land in exchange for which the same shall have been so granted or conveyed under the authority of this act.

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General saving.

XXVI. Saving always to the king's most excellent Majesty, his heirs and successors, and to all and every other person, bodies politic, corporate, and collegiate, his and their heirs, successors, executors, and administrators, (other than and except the several owners and proprietors of the said exchanged lands, and the several persons and parties who shall have consented to such exchange, and all other persons claiming under them, or under the same will or deed or other conveyance as the said owners and proprietors, any right, title, estate, or interest to or in the said exchanged lands,) all such estate, right, title, interest, claim, and demand whatsoever as they, every or any of them had before the making and confirming of any such exchange, or could or might have had or enjoyed in case such exchange had not been made.

Meaning of words in the act.

XXVII. That the words and expressions herein-after mentioned, which in their ordinary signification have a more confined or a different meaning, shall in the construction of this act, except where the nature of the provision or the context of the act shall exclude such construction, be interpreted as follows; that is to say, the word "person" shall extend as well to an individual as to a body politic, corporate, or collegiate, and to a corporation as well aggregate as sole, whether such corporation be eleemosynary or civil, ecclesiastical or lay; the word "henefice" shall extend to and be taken to comprehend rectories, vicarages, donatives, perpetual curacies, parochial and consolidated chapelries, district parishes and district chapelries, and churches and chapels having a district assigned thereto; the word "land" shall extend to every species of land, whether arable, meadow, or pasture, and whether freehold, copyhold, or customary, or held by any other tenure, and as well to one piece or parcel as to any number of pieces or parcels of land; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

XXVIII. That this act shall extend only to that part of the united kingdom called England and Wales.

To extend to England and ~~ales.

No. VIII. 4 & 5 W. 4, c. 30.

The SCHEDULE to which the foregoing ACT refers.

This indenture, made the day of between A. B. of in the year of the one part, and C. D. of of the other part, witnesseth, that in pursuance and under the authority of an act year of the reign of his Majesty king passed in the William the Fourth, intituled [here set forth the title of this act], the said A. B. doth grant and convey all the land comprised in the first schedule hereunder written, marked with the letter A., unto the said C. D., in lieu of and in exchange for the land comprised in the second schedule hereunder written, marked with the letter B., to the end and intent that the land comprised in the first schedule may be held and enjoyed by the said C. D. and the person or persons who for the time being shall be entitled thereto, and be and become subject to such and the same uses, trusts, powers, conditions, limitations, restrictions, charges, and incumbrances as the land comprised in the second schedule now is or may be subject or liable to: And this indenture further witnesseth, that in pursuance of the said act the said C. D. doth grant and convey all the land comprised in the second schedule hereunder written, marked with the letter B., unto the said A. B., in lieu of and in exchange for the land comprised in the first schedule hereunder written, marked with the letter A., to the end and intent that the land comprised in the second schedule may be held and enjoyed by the said A. B. and the person or persons who for the time being shall be entitled thereto, and be and become subject to such and the same uses, trusts, powers, conditions, limitations, restrictions, charges, and incumbrances as the land comprised in the first schedule now is or may be subject or liable to. In witness, &c.

Schedule A. containing the land conveyed by A. B. to C. D.

Schedule B. containing the land conveyed by C. D. to A. B.

Witness

E. F. A. B. (L.s.)
G. H. C. D. (L.s.)

PART II.

CLASS II.

TITHES.

[No. I.] 2 & 3 W. IV. c. 41.—An Act to facilitate the Recovery of Tithes in certain cases in Ireland, and for Relief of the Clergy of the Established Church. [lst June 1832.]

[No. II.] 2 and 3 W. 4, c. 100.—An Act for shortening the Time required in Claims of Modus Decimandi, or Exemption from or Discharge of Tithes. [9th August 1832.]

mandi to be valid in law.

WHEREAS the expence and inconvenience of suits instituted for the recovery of tithes may and ought to be prevented, by shortening the time required for the valid establishment of claims of a *modus deci*-What prescrip- mandi, or exemption from or discharge of tithes; be it therefore tions and claims enacted, &c., That all prescriptions and claims of or for any modus deciof modus deci- mandi, or of or to any exemption from or discharge of tithes, by composition real or otherwise, shall, in cases where the render of tithes in kind shall be hereafter demanded by our said lord the king, his heirs or successors, or by any duke of Cornwall, or by any lay person, not being a corporation sole, or by any body corporate of many, whether temporal or spiritual, be sustained and be deemed good and valid in law, upon evidence showing, in cases of claim of a modus decimandi the payment or render of such modus, and in cases of claim to exemption or discharge showing the enjoyment of the land, without payment or render of tithes, money, or other matter in lieu thereof, for the full period of thirty years next before the time of such demand, unless, in the case of claim of a modus decimandi, the actual payment or render of tithes in kind, or of money or other thing differing in amount, quality, or quantity from the modus claimed, or in case of claim to exemption or discharge, the render or payment of tithes, or of money or other matter in lieu thereof, shall be shown to have taken place at some time prior to such thirty years, or it shall be proved that such payment or render of modus was made or enjoyment had by some consent or agreement expressly made or given for that purpose by deed or writing; and if such proof in support of the claim shall be extended to the full period of sixty years next before the time of such demand, in such cases the claim shall be deemed absolute and indefeasible, unless it shall be proved that such payment or render of modus was made or enjoyment had by some consent or agreement expressly made or given for that purpose by deed or writing; and where the render of tithes in kind shall be demanded by any archbishop, bishop, dean, prebendary, parson, vicar, master of hospital, or other corporation sole, whether spiritual or temporal, then every such prescription or claim shall be valid and indefeasible, upon evidence showing such payment or render of modus made or enjoyment had, as is herein-before mentioned, applicable to the nature of the claim, for and during the whole time that two persons in succession shall have held the office or benefice in respect whereof such render of tithes in kind shall be claimed, and for not less than three years after the appointment and institution or induction of a third person thereto: Provided always, That if the whole time of the holding of such two persons shall be less than sixty years, then it shall be necessary to show such payment or render of modus made or enjoyment had (as the case may be), not only during the whole of such time, but also during such further number of years, either before or after

Proviso.

such time, or partly before and partly after, as shall with such time be sufficient to make up the full period of sixty years, and also for and 2 & 3 W. 4, during the further period of three years after the appointment and institution or induction of a third person to the same office or benefice, unless it shall be proved that such payment or render of modus was made or enjoyment had by some consent or agreement expressly made or given for that purpose by deed or writing.

No. I. c. 100.

II. That every composition for tithes which hath been made or con- What compofirmed by the decree of any court of equity in England in a suit to sitions for tithes which the ordinary, patron, and incumbent were parties, and which shall be consihath not since been set aside, abandoned, or departed from, shall be dered valid. and the same is hereby confirmed and made valid in law; and that no

modus, exemption, or discharge shall be deemed to be within the provisions of this act, unless such modus, exemption, or discharge shall be proved to have existed and been acted upon at the time of or within

one year next before the passing of this act.

III. Provided always, That this act shall not be prejudicial or avail- The act not able to or for any plaintiff or defendant in any suit or action relative to available in any of the matters before mentioned, now commenced, or which may be any suit now hereafter commenced, during the present session of parliament, or commenced, within one year from the end thereof.

IV. Provided also, That this act shall not extend or be applicable to To what cases any case where the tithes of any lands, tenements, or hereditaments this act shall shall have been demised by deed for any term of life or number of not extend. years, or where any composition for tithes shall have been made by deed or writing, by the person or body corporate entitled to such tithes, with the owner or occupier of the land, for any such term or number of years, and such demise or composition shall be subsisting at the time of the passing of this act, and where any action or suit shall be instituted for the recovery or enforcing the payment of tithes in kind within three years next after the expiration, surrender, or other determination of such demise or composition.

V. Provided also, That where any lands or tenements shall have been Time during or shall be held or occupied by any rector, vicar, or other person which lands entitled to the tithes thereof, or by any lessee of any such rector, vicar, shall be held by or other person, or by any person compounding for tithes with any persons entitled such rector, vicar, or other person, or by any tenant of any such rector, to the tithes vicar, or other person, or of any such lessee or compounder, whereby the right to the tithes of such lands or tenements may have been or may the right to the tithes of such lands or tenements may have been or may computation be during any time in the occupier thereof, or in the person entitled to under this act; the rent thereof, the whole of every such time and times shall be excluded in the computation of the several periods of time herein-before mentioned.

VI. Provided also, That the time during which any person otherwise as also the time capable of resisting any claim to any of the matters before mentioned during which shall have been or shall be an infant, idiot, non compos mentis, feme any person cacovert, or lay tenant for life, or during which any action or suit shall pable of resisthave been pending, and which shall have been diligently prosecuted, ing any claim until abated by the death of any party or parties thereto, shall be shall be an inexcluded in the computation of the periods herein-before mentioned, fant, &c. except only in cases where the right or claim is hereby declared to be. absolute and indefeasible.

VII. That in all actions and suits to be commenced after this act What it shall shall take effect it shall be sufficient to allege that the modus or exemp- be sufficient to tion or discharge claimed was actually exercised and enjoyed for such allege in actions of the periods mentioned in this act as may be applicable to the case; commenced and if the other party shall intend to rely on any proviso, exception, under this act. incapacity, disability, contract, agreement, deed, or writing herein mentioned, or any other matter of fact or of law not inconsistent with the simple fact of the exercise and enjoyment of the matter claimed, the same shall be specially alleged and set forth in answer to the allegation of the party claiming, and shall not be received in evidence on any general traverse or denial of the matter claimed.

No. II.

2 & 3 W. 4, act no presumption shall be allowed or made in favour or support of any claim upon proof of the exercise or enjoyment of the right or matter claimed for any less period of time or number of years than for such period or number mentioned in this act as may be applicable to the tion allowed in case and to the nature of the claim.

support of any claim for any less period than mentioned in this act.

Act to extend to IX. Provided also, That this act shall not extend to Scotland or

England only. Ireland.

[No. III.] 2 & 3 W. IV. c. 119.—An Act to amend three Acts passed respectively in the Fourth, Fifth, and in the Seventh and Eighth Years of the reign of his late Majesty King George the Fourth, providing for the establishing of Compositions of Tithes in Ireland, and to make such Compositions permanent. [16th August 1832.]

[No. IV.] 3 & 4 W. IV. c. 100.—An Act for the relief of the Owners of Tithes in Ireland, and for the amendment of an Act passed in the last Session of Parliament, intituled An Act to amend three Acts passed respectively in the Fourth, Fifth, and in the Seventh and Eighth years of the reign of his late Majesty King George the Fourth, providing for the establishing of Compositions for Tithes in Ireland, and to make such Compositions permanent.

[No. V.] 4 & 5 W. IV. c. 83.—An Act to amend an Act passed in the Third Year of His present Majesty, intituled An Act for shortening the Time required in Claims of Modus Decimandi, or exemption from or Discharge of Tithes.

[15th August 1834.]

2 & 3 W. 4, c. 100.

WHEREAS by an act passed in the third year of the reign of his present Majesty, intituled An Act for shortening the Time required in Claims of Modus Decimandi, or Exemption from or Discharge of Tithes, certain provisions were made limiting the period within which in cases of claims of a modus decimandi the payment or render of such modus, and in cases of claim of or to any exemption from or discharge of tithes by composition real or otherwise, the enjoyment of the land without payment or render of tithes or money, or other matter in lieu thereof, should be shown to have taken place: And whereas it was by the said act further enacted, That nothing therein contained should be prejudicial or available to or for any plaintiff or defendant in any suit or action relative to any of the matters therein mentioned, then commenced, or which might be thereafter commenced during the then session of parliament, or within one year from the end thereof: And whereas since the passing of the said act a great number of suits have been instituted for the recovery of tithes, under the apprehension on the part of the plaintiffs that they would be precluded by the said act from recovering the tithes to which they claim to be entitled unless they prosecuted their claims within the periods limited by the said act: And whereas

it is deemed avisable to enable the defendants in such suits to cause all further proceedings therein to be suspended until the end of the 4 & 5 W. 4, next session of parliament, upon the terms herein-after expressed: Be it therefore enacted, &c., That from and after the passing of this act it shall and may be lawful for the defendant or defendants in any action Proceedings or suit which may have been commenced or instituted since the passing stayed on deof the said recited act for the recovery of tithes, or for invalidating fendant's payclaims of a modus decimandi, or an exemption from or discharge of tithes, ing costs into for lands in respect whereof no tithes, nor any composition in lieu court. thereof, shall have been actually rendered or paid within the space of sixty years previous to the passing of this act, with the consent of the plaintiff or plaintiffs in such action or suit, to pay the amount of the costs and expences (to be taxed as between party and party) which may have been incurred by or on the part of the plaintiff or plaintiffs in such action or suit into the Bank of England, in the name and with the privity of the accountant general of the court of chancery or of the court of exchequer, or of the proper officer of the court in which such action or suit shall have been brought, to the credit or on account of such action or suit; and in every case where such costs and expences shall be so paid into court, all further proceedings in such action or suit (except as herein-after provided) shall be stayed and suspended until the end of the next session of parliament.

II. That from and after the end of the next session of parliament it Plaintiff may shall and may be lawful for the plaintiff or plaintiffs in any action or give notice to suit, in which the defendant or defendants shall have caused the pro- defendant of his ceedings to be stayed or suspended under the provision herein-before intention to contained to give notice to the defendant or defendants of his, her, or proceed; in their intention to proceed in such action or suit and to proceed there-which case the with accordingly; and then and in every such case the defendant or de-have his costs fendants shall, immediately after such notice shall have been so given, out of court. be entitled to receive out of court the sum or sums which such defendant or defendants shall have previously paid into court on account of the costs of the plaintiff or plaintiffs.

III. Provided always, That it shall and may be lawful for the plaintiff If plaintiff acor plaintiffs in any action or suit in which the defendant or defendants cepts the costs, shall have paid into court the costs of such plaintiff or plaintiffs under all proceedings the provision herein-before contained, to take the sum or sums which to be abanmay have been so paid for such costs out of court, for his, her, or their doned. own use, and then and in every such case all further proceedings in such action or suit shall be for ever abandoned and relinquished.

IV. That it shall and may be lawful for the successors, heirs, execu- Executors. tors, administrators, or assigns of any plaintiff or plaintiffs, whose heirs, &c., may action or suit may be so stayed or suspended as aforesaid, to revive and act in case of proceed with such action or suit after the end of the next session of death. parliament, or to take such costs as aforesaid out of court, and cause all further proceedings to be abandoned and relinquished, in the same manner in every respect as the original plaintiff or plaintiffs might or could have done.

V. Provided always, That notwithstanding the provision herein-Judges may, before contained it shall and may be lawful for any party to any action upon sufficient or suit so suspended, upon adducing sufficient proof to the satisfaction cause shown, of a judge of the court in which such action or suit shall have been permit actions commenced that there is danger of some material evidence in support to be proceed-of the right or claim of such party being lost in consequence of such ed with. suspension, to proceed in such action or suit to the extent of proving such fact or facts the evidence respecting which shall be so shown as aforesaid to be in danger of being lost through such suspense.

VI. Provided always, That nothing in this act contained shall pre- As to previous vent the prosecution of any suit in law or equity for the recovery of claims. any tithes claimed or demanded previous to the passing of the said recited act, or for the recovery of the value thereof.

[No. VI.] 5 & 6 W. IV. c. 74.—An Act for the more easy Recovery of Tithes. [9th September 1835.]

7 & 8 W. 3, c. 6.

Proceedings for the recovery of tithes under 101. (except in the case of quakers) shall be had only under the powers of the acts.

WHEREAS an act was passed in the seventh and eighth years of the reign of king William the third, intituled An Act for the more easy Recovery of Small Tithes, whereby it was amongst other things enacted, that two or more of his Majesty's justices of the peace were authorized and required to hear and determine complaints touching small tithes, oblations, and compositions substracted or withheld, not exceeding forty shillings: and whereas an act was passed in the fiftythird year of the reign of his late Majesty king George the Third, 53 G.3, c. 127. intituled An Act for the better Regulation of Ecclesiastical Courts in England, and for the more easy Recovery of Church Rates and Tithes, whereby the jurisdiction of the said justices was extended to all tithes, oblations, and compositions substracted or withheld, where the same should not exceed ten pounds in amount from any one person: and whereas by an act of the seventh and eighth years of the reign of king William the third, chapter thirty-four, provision is made for the recovery of great and small tithes (not exceeding the amount of ten pounds) due from quakers, by distress and sale, under the warrant of two justices: and whereas by an act of the first year of the reign of king George the First, chapter six, the provisions of the said last-mentioned act were extended, in the case of quakers, to all tithes or rates, and customary rights, dues, and payments belonging to any church or chapel: and whereas by the said recited act of the fifty-third year of the reign of king George the third the aforesaid provisions in relation to quakers were amended, and were also made applicable to any amount not exceeding fifty pounds: and whereas by an act of the parliament of Ireland of the seventh year of the reign of king George the Third, chapter twenty-one, amended and extended by an act of the parliament of the United Kingdom of the fifty-fourth year of the reign of king George the Third, chapter sixtyeight, similar provisions are in force in Ireland for the recovery, from quakers, of great and small tithes, and customary and other rights, dues, and payments belonging to any church or chapel, not exceeding the amount of fifty pounds: and whereas it is highly expedient, and would further tend to prevent litigation, if, in the cases and with the exceptions herein-after mentioned, all claimants were restricted to the respective remedies provided by the said recited acts: be it therefore enacted, &c. that from and after the passing of this act no suit or other proceeding shall be had or instituted in any of his Majesty's courts in England now having cognizance of such matter for or in respect of any tithes, oblations, or compositions withheld, of or under the yearly value of ten pounds (save and except in the cases provided for in the two first-recited acts), but that all complaints touching the same shall, except in the case of quakers, be heard and determined only under the powers and provisions contained in the said two first-recited acts of two first recited parliament in such and the same manner as if the same were herein set forth and re-enacted; and that no suit or other proceeding shall be had or instituted in any of his Majesty's courts either in England or Ireland now having cognizance of such matter, for or in respect of any great or small tithes, moduses, compositions, rates, or other ecclesiastical dues or demands whatsoever, of or under the value of fifty pounds, withheld by any quaker either in England or Ireland; but that all complaints touching the same, if in England, shall be heard and determined only under the powers and provisions contained in the said recited acts of the seventh and eighth years of king William the third, chapter thirty-four, and the fifty-third year of king George the third; and if in Ireland under the said recited act of the parliament of Ireland, of the seventh year of king George the Third, and the said recited act of the fifty-fourth year of king George the third, in the same manner as if the same were herein set forth and re-enacted: Provided always, that nothing herein-before contained shall extend to any

Proviso.

case in which the actual title to any tithe, oblation, composition, modus, due, or demand, or the rate of such composition or modus, or the actual 5 & 6 W. 4, liability or exemption of the property to or from any such tithe, oblation, composition, modus, due, or demand shall be bond fide in question, nor to any case in which any suit or other proceeding shall have been actually instituted before the passing of this act.

No. VI. c. 74.

II. That in case any suit or other proceeding has been prosecuted or Manner of recommenced, or shall hereafter be prosecuted or commenced in any of covering tithes his Majesty's courts in England or Ireland, for recovering any great or due from quasmall tithes, modus or composition for tithes rate, or other ecclesiastical kers. demand, substracted, unpaid, or withheld by or due from any quaker, no execution or decree or order shall issue or be made against the person or persons of the defendant or defendants, but the plaintiff or plaintiffs shall and may have his execution or decree against the goods or other property of the defendant or defendants; and in case any person now is detained in custody in England or Ireland under any execution or decree in such suit or proceeding, the sheriff or other officer having such person in his custody shall forthwith discharge him therefrom; and the plaintiff or plaintiffs in such suit or proceeding shall and may, notwithstanding such discharge, issue any other execution or take any other proceeding for recovering his demand and his costs out of the property, real or personal, of the person so discharged.

[No. VII.] 5 & 6 W. IV. c. 75.—An Act for the Amendment of the Law as to the Tithing of Turnips in certain [9th September 1835.] Cases.

WHEREAS it is frequently convenient and necessary, in the agistment of turnips by sheep or cattle, to sever the turnips from the ground, in order that they may be the more easily and completely consumed, and thereby to prevent waste, and it is not reasonable that such severance should vary or affect the payment of tithe: Be it therefore enacted, &c., That from and after the passing of this act, in all Turnips severcases where turnips shall be severed in the manner and for the purpose ed from the aforesaid, and shall be eaten on the ground by sheep or cattle, and not land, if conotherwise removed, the same shall be subject to the payment of tithe sumed on the in the same manner and to the same extent as if they had been eaten same, subject by such sheep or cattle without having been so severed as aforesaid, to tithe as if not so severed. and no farther or otherwise.

[No. VIII.] 5 & 6 W. IV. c. 79.—An Act to suspend until after the sixth day of April, one thousand eight hundred and thirty-six, proceedings for recovering Payment of certain Instalments of the Money advanced under the Acts for establishing Tithe Compositions in Ireland.

[9th September 1835.]

PART II.

CLASS III.

APPROVEMENT AND INCLOSURE OF COMMONS.

[No. I.] 1 & 2 W. IV, c. 42.—An act to amend an Act of the Fifty-ninth Year of His Majesty King George the Third, for the Relief and Employment of the Poor.

[15th October 1831.]

59 G. 3, c. 12.

Churchwar-

dens, &c. may

WHEREAS by an act passed in the fifty-ninth year of the reign of his late Majesty King George the Third, intituled An Act to amend the Laws for the Relief of the Poor, certain power is given to churchwardens and overseers of the poor to provide land for the employment of the poor to an extent not exceeding twenty acres: And whereas such limitation to twenty acres has been found inconvenient in many parishes: Be it therefore enacted, &c., That it shall and may be lawful provide land to for the churchwardens and overseers of the poor of any parish to hire a certain extent and take on lease, for the employment of the poor of such parish, any for employment suitable portion or portions of land within or near to such parish, to an

extent not exceeding fifty acres.

Churchwarinclose part of cultivation, with consent.

of the poor.

II. That, in order to extend the salutary and benevolent purposes of dens, &c. may this act, it shall and may be lawful for the churchwardens and overseers of the poor of any parish to inclose from any waste or common land or waste lands for ground lying in or near to such parish, with the consent in writing of the lord of the manor and the major part in value of the persons having right of common thereupon, signified under their hands and seals, any part or portion of such waste or common land not exceeding fifty acres, and to cultivate and improve the same for the use and benefit of such parish and the poor persons within the same, or to let any part or parts of the same to any poor and industrious inhabitant or inhabibants of such parish, to be by him or them occupied and cultivated on his or their own account.

Power to hire land, &c. extended to guardians, &c.

III. That the powers and authorities hereby given to churchwardens and overseers of the poor shall extend to and may be exercised by the guardians of the poor of any parishes or places which are or may be incorporated or united under and by virtue of an act made and passed in the twenty-second year of the reign of his late Majesty King George 22 G. 3, c. 83. the Third, intituled An Act for the better Relief and Employment of the *Poor*, or under or by virtue of any local act or acts, and by the overseers

of all townships, villages, and places having separate overseers, and

maintaining their poor separately.

Provisions of recited act exhired, &c. under this act.

lands hired.

IV. That the clauses, powers, and authorities, regulations, provisions, and directions, in and by the said recited act given, contained, and tended to lands made with respect to the providing of land for the employment of the poor, or to the cultivation, management, or disposition thereof, or to the poor persons employed thereon or renting any portion thereof, shall, so far as the same are applicable, be deemed and taken to extend to any land which shall be provided under this act, and to the poor persons employed thereon or renting any portion thereof respectively.

V. Provided always, That no poor inhabitant of any parish or place, No settlement to be gained by to whom any land shall be let which shall or may have been or shall be hired or taken or inclosed under or by virtue of the said recited act or this act, shall gain a settlement by reason of his renting and occupying or paying parochial taxes for such land, either alone or with any other land or tenement.

[No. II.] 1 & 2 W. IV. c. 59.—An Act to enable Churchwardens and Overseers to inclose Land belonging to the Crown, for the Benefit of poor Persons residing in the parish in which such Crown Land is situated.

[20th October 1831.]

WHEREAS by an act passed in the fifty-ninth year of the reign of his late Majesty King George the Third, intituled An Act to amend the 59 G. 3, c. 12. Laws for the Relief of the Poor, power is given to churchwardens and overseers of the poor to provide land for the employment of the poor: and whereas it is expedient to extend such power, so as to enable churchwardens and overseers of the poor to acquire for such purposes portions of forest or waste lands belonging to the crown: be it therefore enacted, &c., That it shall and may be lawful for the churchwardens and over- Churchwarseers of the poor of any parish to inclose from any forest or waste lands dens, with conbelonging to the crown lying in or near to such parish, with the consent sent of treasury, in writing of the lord high treasurer or the commissioners of his Ma- may inclose jesty's treasury of the United Kingdom of Great Britain and Ireland for crown lands not the time being, to be signified by some warrant under his or their hand acres. or hands, any part or portion of such forest or waste lands not exceeding fifty acres, for the purpose of cultivating and improving the same for the use and benefit of such parish and the poor persons within the same.

II. Provided always, That no poor inhabitant of any parish or place Persons renting to whom any land shall be let which shall or may have been or shall be such land not to hired or taken or inclosed under or by virtue of the said recited act or gain a settlethis act, shall gain a settlement by reason of his renting and occupying ment. or paying parochial taxes for such lands, either alone or with any other land or tenement.

[No. III.] 2 W. IV. c. 42.—An Act to authorize (in Parishes inclosed under any Act of Parliament) the letting of the Poor Allotments in small portions to industrious [1st June 1832.] Cottagers.

WHEREAS in parishes inclosed under acts of parliament there are in many cases allotments made for the benefit of the poor, chiefly with a view to fuel, which are now comparatively useless and unproductive: and whereas it would tend much to the welfare and happiness of the poor if those allotments could be let at a fair rent, and in small portions, to industrious cottagers of good character, while the distribution of fuel might be augmented by appropriating the said rents to the purchase of an additional quantity; be it therefore enacted, &c., That it shall and Trustees and may be lawful for the trustees of the said allotments, together with the parish officers churchwardens and overseers of the poor, in parish vestry assembled, in vestry assemand they are hereby required, to let portions of any such allotment, not bled may let less than one fourth of a statute acre, and not exceeding one such acre, portions of poor to any one individual, according to their discretion, as a yearly occupa- allotments to tion from Michaelmas to Michaelmas, (and at such rent as land of the same quality is usually let for in the said parish,) to such industrious cottagers of good character, being day labourers or journeymen legally settled in the said parish, and dwelling within or near its bounds, as shall apply for the same in the manner herein-after mentioned.

industrious cot-

II. Provided also, That the person hiring the same shall be held Land to be duly bound to cultivate it in such a manner as shall preserve the land in a cultivated. due state of fertility.

III. That for the purpose of carrying this act into effect a vestry shall held annually be held in the first week in September in every year, of which ten days' to receive appli-

Vestry to be cations.

No. III.

notice shall be given in the usual manner, at which vestry the trustees 2 W. 4, c. 42. of the said allotments may attend and vote, if they shall so think fit, and at which vestry, or some adjournment thereof, any industrious cottager of good character who may desire to rent such portion of land as aforesaid may apply for the same; and the said vestry are hereby required, taking into consideration the character and circumstances of the applicant, to determine the case, either by rejecting his application, or by making an order that he shall be permitted to occupy such portion of the poor allotment, being not less than one fourth of a statute acre nor exceeding one such acre, as the said vestry in their discretion shall Order of vestry determine, and upon the terms herein-before enacted; and the said to authorize oc- order of vestry shall be held to all intents and purposes to be a sufficient title and authority to such applicant to enter into the occupation of such land at the time therein appointed.

cupation.

Payment of rent.

If rent is in vated, tenant may be evicted.

Power to recover possession of land illegally held over, by summary process.

IV. Provided always, That the rent shall be reserved and payable to the churchwardens and overseers of the poor, on behalf of the vestry, in one gross sum for the whole year, and shall be paid to one or either of them at the end of the year's occupation.

V. That if the rent of such portion of land shall at any time be four arrear, or land weeks in arrear, or if at the end of any one year of occupation it shall not duly culti- be the opinion of the vestry that the land has not been duly cultivated, so as to fulfil the useful and benevolent purposes of this act, then and in such case the churchwardens and overseers of the poor, or any or either of them, with the consent of the vestry, may serve a notice to quit upon the occupier of such portion of land; whereupon the said occupier shall deliver up possession of the same to the churchwardens and overseers aforesaid, or any or either of them, within one week after the said notice has been duly served upon him.

> VI. That if any person to whom such portion of land as aforesaid shall have been let, for his or her own occupation, shall refuse to quit and to deliver up possession thereof when thereto required according to the terms of this act, or if any other person or persons shall unlawfully enter upon or take or hold possession of any such land, it shall be lawful for the churchwardens and overseers of the poor, or any or either of them, to exhibit a complaint against the person so in possession of such land before two of his Majesty's justices of the peace, who are hereby authorized and required to issue a summons, under their hands and seals, to the person against whom such complaint shall be made, to appear before them at a time and place appointed therein; and such justices are hereby required and empowered, upon the appearance of the defendant before them, or upon proof on oath that such summons has been duly served upon him, or left at his usual place of residence, or if there should have been any difficulty in finding such usual place of residence, then upon proof on oath of such difficulty, and that such summons has been affixed on the door of the parish church of the said parish in which such land is situated, and in any extra-parochial place on some public building or other conspicuous place therein, to proceed to hear and determine the matter of such complaint, and if they shall find and adjudge the same to be true, then by warrant under their hands and seals to cause possession of the land in question to be delivered to the churchwardens and overseers of the poor, or to some of them.

Arrears of rent covered.

VII. That all arrears of rent for the said portions of land shall be how to be re-recoverable by the churchwardens and overseers of the poor, or any of them, on behalf of the vestry, by application to two of his Majesty's justices of the peace in petty sessions assembled, who shall thereupon summon the party complained against, and after hearing what he has to allege, should they find any rent to be due, they are required to issue a warrant under their hands and seals to levy the same upon the goods and chattels of the person from whom the said rent shall be due and owing.

Application of rent.

VIII. That the rent of the said portions of land shall be applied by the vestry in the purchase of fuel, to be distributed in the winter season

Class III.] Approvement and Inclosure of Commons.

among the poor parishioners legally settled and resident in or near the No. III. said parish.

2 W.4, c. 42.

IX. That if any of the said allotments shall be found to lie at an inconvenient distance from the residences of the cottagers, it shall be Power to exlawful for the vestry, by an order made to that effect, to let such allot- change, for ment, or any part thereof, for the best rent that can be procured for the greater convesame, and to hire in lieu thereof, for the purposes of this act, land of nience of cotequal value, more favourably situated.

X. That no habitations shall be erected on the portions of land de- No habitations mised under this act, either at the expence of the parish or by the indi- to be erected.

viduals renting the same.

XI. And whereas by two acts of the first and second years of the Extending reign of his present Majesty, intituled An Act to amend an Act of the Fifty- powers and ninth Year of His Majesty King George the Third, for the Relief and Provisions of Employment of the Poor, and the other intituled An Act to enable the this act to 1 & 2 Churchwardens and Overseers to inclose Lands belonging to the Crown, for W. 4, c. 42 and the Benefit of poor Persons residing in the Parish in which such Crown c. 59. land is situated, power is given under certain restrictions, to inclose any quantity not exceeding fifty acres of waste land and crown land respectively, for the use and benefit of the poor; be it further enacted. That in any parish where such inclosure shall exist or shall hereafter take place, or where land shall in any other manner be found appropriated for the general benefit of the poor of any parish, then and in such cases the powers and provisions of this act shall be held to apply, in so far as the same may be found applicable.

[No. IV.] 3 & 4 W. IV. c. 35.—An Act to remedy certain Defects as to the Recovery of Rates and Assessments made by Commissioners and other Persons under divers Inclosure and Drainage Acts after the Execution of the final Awards of the said Commissioners. [24th July 1833.]

WHEREAS divers acts of parliament have from time to time been passed for the inclosure, drainage, and improvement of divers lands, commons, and waste grounds, wherein commissioners are empowered to set out and make private roads and drains, banks, bridges, sluices. and other works: and whereas it hath been discovered, since the passing of the said acts, that there are no powers therein for the recovery of the rates or assessments from time to time after the making of the respective final awards of the commissioners acting in execution of the said acts, under or by virtue of the said acts or the said awards, or under or by virtue of powers, authorities, or directions given or contained in the said acts or awards, for defraying the expences of repairing, superintending, or renewing the said roads, drains, banks, bridges, sluices, and other works, whereby great inconvenience and losses have been sustained for want of such powers: and whereas it is expedient that a summary mode of proceeding should be granted for the purpose of recovering and enforcing the payment of such rates or assessments; for remedy whereof, may it please your Majesty that it may be enacted; and be it enacted, &c. That in all cases where no such remedy shall have Mode of probeen given, and where any such rate or assessment, rates or assessments, ceeding for realready made or hereafter to be made, or any part thereof, and whether covery of rates made at one time or at several times, shall have been or shall be in or assessments arrear and unpaid for the space of twenty-one days after a notice in in arrear where writing requiring payment thereof shall have been personally served on no remedy hath or left at the place of abode of the person or persons, or one of the been already persons, by whom the said rate or assessment, rates or assessments. given. ought to be paid, or at the place of abode of the tenant or occupier of the lands or grounds in respect of which the said rate or assessment, rates or assessments, is or are made, it shall and may be lawful for any

No. IV. c. 35.

two or more of his Majesty's justices of the peace acting for any county, 3 & 4 W. 4, riding, or division, in petty sessions assembled, (not interested in the matter in question,) and who are hereby required, upon complaint made to them by the person or persons, or any one of the persons, to whom for the time being the said rate or assessment, or rates or assessments ought to be paid, or by the person or persons, or any one of the persons, who for the time being shall be duly appointed to make or collect such rate or assessment or rates or assessments, to summon the person or persons from whom any rate or assessment, rates or assessments, shall be due, and the witnesses on both sides, and upon the appearance or contempt of the party or parties accused, or any of them, to examine such party or parties and witness or witnesses as may be then present, upon oath (which oath such justices are hereby authorized and empowered to administer), and to give judgment accordingly upon the matters and things brought before them, and by warrant or warrants under the hands and seals of such justices to levy the amount of all and every such rate or assessment, rates or assessments, so in arrear and unpaid, by distress and sale of the goods and chattels of the person or persons so making default in payment of such rate or assessment, rates or assessments, wheresoever the same can or may be found, or of the occupier or occupiers of any lands or grounds belonging to such person or persons in respect of which such rate or assessment, rates or assessments, is or are made, which may be found on such lands or grounds, together with the reasonable costs and charges of such proceeding, rendering the overplus arising by such sale (if any), after deducting the sum or sums to be levied by such distress and sale, and the charges of taking, keeping, appraising, and selling the said distress, to the owner thereof (on demand); and the respective tenants of all the lands on which such distress shall be taken are hereby authorized and required to pay any sum of money for which such distress shall be made, and to deduct the same out of his, her, or their rent; and every tenant making such payment shall be acquitted, exonerated, and discharged for so much money as shall be by him or her so paid: Provided always, that no such levy by distress and sale shall be made in respect of any such rate or assessment when more than six years shall have elapsed from the time when such rate or assessment first became due, unless a promise in writing to pay the said rate or assessment shall have been given by the person or persons liable to the payment thereof to some person duly authorized to receive the same; and when such promise has been given no such levy by distress or sale shall take place when more than six years shall have elapsed from the time that such promise was given: Provided also, that no such levy by distress and sale shall in any case exceed the amount of the rent due.

Limiting the recovery to six years from period of rate becoming due.

II. That the justices by whom any such warrant of distress shall be issued may cause such warrant to be drawn up in the following form of rant of distress. words, or in any other form to the same effect; (that is to say)

'To the Constable of the ' of

in the County

HEREAS in and by a certain rate or assessment, [here in substance describe the purposes of the rate] A. B. of in the parish of in the county of rated and assessed in the sum of if more than one rate or as-'sessment, recite the others in the same manner]: and whereas it ap-' peareth unto us, two (or more) of his Majesty's justices of the peace ' for the said (county, riding, or division, (as the case may be) upon the the person to whom the said rate or ' complaint of C. D. of 'assessment ought to be paid, (or otherwise as the case may be,) that a 'notice in writing, requiring payment of the said sum (or said several ' sums), was personally served on the said A. B., (or left at the place of

No. IV.

c. 35.

'abode of the said A. B., or of the tenant or occupier of the lands or grounds,) to wit, on the day of last, and that 3 & 4 W. 4, default has been made in payment thereof for the space of twenty-one 'days next after such notice so served (or left), and that the same sum (or several sums, or a certain part of such sum or sums, as the case may ' be,) is (or are) still due and unpaid: and whereas it having been duly proved to us, upon oath, that the said A. B. hath been duly summoned to appear before us, the said justies, to show cause why the said rate or assessment (rates or assessments) should not be paid; and he the said A. B. having appeared before us (or and he the said A. B. having neglected to appear accordingly before us, as the case may be,) according 'to such summons, and not having shown to us any sufficient cause ' why the said sum so as aforesaid due and unpaid should not be paid: 'these are therefore to require you forthwith to make distress of the goods and chattels of him the said A. B. wheresoever they may be 'found, or of the occupier or occupiers of the lands or grounds or some part thereof belonging to the said A. B. in respect of which the 'said rate or assessment (rates or assessments) is (or are) made, which 'may be found in and upon such lands or grounds; and if within 'the space of five days next after such distress by you taken, the 'sum of and also the further sum ' of being the costs already incurred in

' the premises, making together the sum of

'together with the reasonable charges of taking and keeping the said ' distress, shall not be paid, that then you do sell the said goods and 'chattels so by you distrained, and out of the money arising by such 'sale that you detain the said sum of 'your reasonable charges of taking, keeping, appraising, and selling

the said distress, rendering to him the said A. B. the overplus, on

'demand. Given under our hands and seals this

'day of one thousand eight hundred and thirty III. That if any person or persons shall think himself, herself, or Appeal. themselves aggrieved by any thing done in pursuance of this act, then and in every such case he, she, or they may appeal to the next court of general quarter sessions of the peace which shall be holden not less than ten days after the cause of such complaint for the county, riding, division, or place wherein the cause of complaint shall have arisen; provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within eight days after such cause of complaint, and six clear days at the least before such sessions, and shall also enter into a recognizance within such six days, with sufficient surety, before a justice of the peace for the same county, riding, division, or place, conditioned to appear at the said sessions, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be awarded by the court; and the court at such sessions shall hear and determine the matter of such appeal, and shall make such order therein, with or without costs to either party, as to the court shall seem

IV. That no such warrant of distress or adjudication made on appeal be quashed for

therefrom shall be quashed for want of form.

V. Provided always, That at the hearing of the said complaint and Rated persons appeal, or either of them, no person shall be an incompetent witness by not to be disreason of his or her being rated or liable to be rated to the said rate or qualified from assessment, rates or assessments.

Warrant not to

giving evidence.

[No. V.] [3 & 4 W. IV. c. 87.—An Act for remedying a Defect in Titles to Messuages, Lands, Tenements, and Hereditaments allotted, sold, divided, or exchanged under Acts of Inclosure, in consequence of the Award not having been inrolled, or not having been inrolled within the Time limited by the several Acts; and for authorizing the Appointment of new Commissioners in certain Cases where the same shall [28th August 1833.] have been omitted.

WHEREAS by divers acts of inclosure the awards or instruments in writing, thereby directed to be formed and drawn up or made by the commissioner or commissioners appointed by or by virtue of such acts for executing the powers and authorities thereof respectively, are directed or required to be inrolled by or with the clerk of the peace of the county, riding, division, soke, or place in which the lands to which such acts respectively relate are situated, or in one of his Majesty's courts of record at Westminster, or in some other court, and, in certain of the said acts, within certain times mentioned in such acts next after the execution of such awards or instruments in writing respectively; and in certain of the said acts new commissioners are directed to be appointed within certain times thereby respectively limited: And whereas in a great number of instances such awards or instruments in writing have not been inrolled, or have not been inrolled within the time directed or required by the several acts; and by reason of such omission the title to the messuages, lands, tenements, and hereditaments allotted, sold, divided, or exchanged under such acts respectively may be considered defective; and in many instances new commissioners have not been appointed within the time directed by the several acts: And whereas it is expedient that provision should be made for remedying such defects: may it therefore please your Majesty that it may All awards albe enacted; and be it enacted, &c., That every award already made and executed under or in pursuance of any act of inclosure, and which has not been inrolled, or which has not been inrolled within the time limited by the act under or in pursuance of which such award shall have been made, shall from the time of the execution of such award be as good and valid and of the same effect in all respects as if such award had been inrolled in the manner, and within the time, if any, the time limited appointed and limited for that purpose in the act under or in pursuance

ready made but not involled shall, from the execution thereof be as valid as if inrolled within by the act. Proprietors of lands may

be involled.

II. That where any award already made and executed under or in pursuance of any act of inclosure has not been inrolled, it shall be lawcause awards to ful for any person or persons having or deriving title to any messuages, lands, tenements, and hereditaments under such award, at his, her, or their expence, to require and cause such award, with any maps or plans annexed or relating thereto, to be inrolled in any one of his Majesty's courts of record at Westminster, or by the clerk of the peace of the county, ridin, division, soke, or place in which the lands to which such award shall relate are situated, to the end that recourse may be had thereto by any person or persons interested therein, for the inspection and perusal whereof no more than one shilling shall be paid; and a copy of such award when so inrolled, or of any part thereof, signed by the proper officer of the court wherein the same shall be inrolled, or by the clerk of the peace for such county, riding, division, soke, or place, or his deputy, purporting the same to be a true copy, shall from time to time be made and delivered by such officer or clerk of the peace for the time being, or his deputy, to any person or persons requesting the same, for which no more shall be paid than three-pence for every sheet of seventy-two words; and every award already made, whether inrolled or not, and every copy of such award when inrolled as aforesaid, or of

of which the same has been made.

Copy of any award so inrolled and signed by the proper officer to be delivered to any person requiring the same.

any part thereof, signed as aforesaid, shall at all times be admitted and No. V. allowed in all courts whatsoever as legal evidence.

III. That if any commissioner shall be dead or incapable of acknowledging his award before such award shall be involled, the same award may be involled without the acknowledgment of such commissioner, on As to practice due proof being given that such award is the deed or instrument of such requiring acknowledgment of deeds. commissioner.

3 & 4 W. 4, c. 87.

IV. That where any award already made and executed under or in As to the pospursuance of any act of inclosure shall be deposited in any parish session of church, it shall be considered as in the custody of the officiating minis- awards when ter and churchwardens for the time being of such parish church; and deposited. where any such award shall be in the possession of the lord of any manor to or for whom, or to or for any preceding lord of which manor, any allotment shall have been made under such award, or in the possession of the steward of such manor, it shall be considered as in the custody of the lord of such manor for the time being; and the steward shall, when required, deliver up the same accordingly; and the said minister and churchwardens, or lord, as the case may be, shall from time to time, upon the request of any person or persons interested in any allotment or allotments, or otherwise, under such award, cause the same to be produced for the inspection of such person or persons on being paid by him, her, or them a just and reasonable compensation for such production, and shall also cause the same to be produced for the purpose of being inrolled, or in any court of law or equity, or on any other occasion, for the purpose of being given in evidence, on being paid all just expences.

V. That where any such award as aforesaid shall not be deposited in Proprietors the parish church of the parish in which the lands to which such award may require shall relate are situated, and shall not be in the possession of the lord awards to be or steward of any manor to or for the present or any preceding lord of deposited in the which manor an allotment shall have been made under such award, but church or with shall be in the possession of any other person, it shall be lawful for any the lord of the person or persons interested in any allotment or allotments, or other-manor. wise, under such award, to require the same to be deposited in the parish church of the parish in which the lands to which such award shall relate are situated, and the person in whose possession the same shall be shall, on such request, deliver up the same to the minister and churchwardens for the time being of such parish church, for the pur-

pose of being so deposited.

VI. That in all cases where in or by virtue of any act or acts of in- Providing for closure heretofore passed provision hath been made for the election, appointment of nomination, or appointment, within a time therein limited or directed, commissioners of a new commissioner or commissioners in the event of the death, re- in cases where fusal, or neglect to act of the commissioner or commissioners appointed they have been by or by virtue of such act or acts, or of his or their becoming, by neglected or reason of absence beyond the seas, or otherwise, incapable of acting in omitted to be the execution of the powers, authorities, and trusts in such commissioner made. or commissioners vested and reposed, before the same and every of them shall have been fully executed and performed, and where any such election, nomination, or appointment as aforesaid, or any of them, shall have been neglected or omitted to have been made, pursuant to such act or acts, within the time or times thereby limited or directed, then and in every such case it shall and may be lawful to and for the person or persons by any such act or acts of inclosure authorized or empowered for that purpose, and on such notice or notices and at such meeting or meetings (if any) as required or directed by any such act or acts of inclosure, to proceed at any time after the passing of this act to the election, nomination, and appointment of, and to elect, nominate, and appoint in such manner as by such act or acts of inclosure is or are directed, one or more fit and proper person or persons (as the case may require), not interested in the division, allotment, or inclosure by such act or acts of inclosure directed or authorized to be made, and not

No. V.

otherwise disqualified by such act or acts respectively, as a commis-3 & 4 W. 4, sioner or commissioners in the room, place, or stead of the commissioner or commissioners so dying, refusing, or neglecting, or becoming incapable of acting as aforesaid, and to do all other acts, matters, and things which shall be requisite or necessary for effecting the purposes aforesaid, notwithstanding the time so limited or appointed as aforesaid for doing or performing the same shall then have elapsed, and so from time to time as often as any commissioner so to be elected, nominated, or appointed as aforesaid shall die, refuse, neglect, or become incapable of acting as aforesaid; and the several writings appointing such new commissioner or commissioners, and all other documents (if any) relative thereto, shall be deposited or disposed of as by such act, or acts of inclosure is or are directed; and every commissioner to be elected, nominated, or appointed by virtue of this act to execute the powers, authorities, and trusts of any act or acts of inclosure as aforesaid, having first taken the oath or oaths, and complied with the other terms or conditions (if any) prescribed in and by such act or acts of inclosure, shall have the same powers and authorities, and no others, for putting or carrying into execution such act or acts, as if he had been duly elected, nominated, and appointed for those purposes, within the time limited or directed by such act or acts of inclosure.

Act not to give defects.

VII. Provided always, That nothing herein contained shall extend to greater validity affect any public right, or otherwise to give any greater force or validity to awards than to any award already made and executed under or in pursuance of any as respects the act of inclosure, than such award would have had if this act had not been made, except so far as respects the several defects herein-before respectively specified and provided for.

PART II.

CLASS IV.

JOINT-TENANTS, COPARCENERS, AND TENANTS IN COMMON.

[By the recent statute of limitations, 3 & 4 W. 4, c. 27, s. 12, the rule of law that the possession of one joint-tenant, coparcener, or tenant in common is the possession of the others of them, has been altered. And by the same act, s. 36, the writ of partition, whereby joint-ter were compellable at law to divide their lands is abolished. See the clauses, post. Part III, Class 8.]

PART II.

CLASS V.

MORTMAIN AND CHARITABLE USES.

[No. I.] 1 & 2 W. IV. c. 34.—An Act for appointing Commissioners to continue the Enquiries concerning Charities in England and Wales for Two Years, and from thence to the end of the then next Session of Parliament. (1)

[15th October 1831.]

WHEREAS, &c., [Recites the titles of the 58 G. 3, c. 91. 59 G. 3, c. 81. 5 G. 4, c 58. 10 G. 4, c. 57]: And whereas the commissioners appointed under and by virtue of the said two first-mentioned acts pursued the inquiries thereby authorized and directed, and made several reports of their proceedings; but their powers expired on the first day of July one thousand eight hundred and thirty: And whereas many charities still remain to be investigated, and further time will be required for that purpose, and it is therefore highly expedient that commissioners should be appointed for the purposes aforesaid, to act according to the provisions and limitations herein-after expressed and contained: be it therefore enacted, &c., That it shall and may be lawful for his Majesty to issue a commission under the great seal to any number of persons not exceeding twenty, who shall be constituted commissioners for the purposes intended by this act; and that they the said commissioners shall and they are hereby empowered and required, in Commissioners manner herein-after mentioned, to examine into and investigate the to be appointed amount, nature, and application of all estates and funds of what nature the nature and or kind soever, and the produce thereof, destined or intended to be management of applied to the purpose of educating the poor in England and Wales, or charities. to the support of any charity or charities, or charitable donation or donations for the benefit of poor persons in England and Wales, or held under trusts created for any charitable uses or purposes whatever in England or Wales, or held under trusts created for any charitable uses or purposes whatever in England or Wales, (except as is herein-after provided and excepted,) and to examine into and investigate all breaches of trust, irregularities, frauds, abuses or supposed abuses, or misconduct in relation to and in the management or appropriation or nonappropriation or misappropriation of such estates and funds; and the said commissioners or any five of them shall once in each half year, during the continuance of the said commission, report and certify in writing under their hands and seals, To report halfto the king's most excellent Majesty, their proceedings touching the amount, nature, management, application, and appropriation of such of the aforesaid estates and funds as they shall have inquired and examined into, and also what is the nature of such estates and funds respectively, and the actual annual produce thereof, and what is the actual annual value thereof, and in whose possession as tenants thereof any part thereof consisting of lands, tenements, or hereditaments shall be, adding at the same time such observations as shall occur to them respecting such mode as they shall deem most effectual for the recovering of such part or parts of such estates or funds as shall appear to them to have been applied in breach of the several trusts created in respect of the same, or shall appear to have been omitted to be applied in pursuance of such trusts, and subjoining such suggestions as may seem to

No. I.

them expedient respecting the most effectual mode of securing such 1 & 2 W. 4, estates and funds, and their respective produce, against any future misapplication thereof.

II. That no remuneration shall be given, for and in respect of the Remuneration execution of this act, to such of the said commissioners as shall be and allowance, members of either house of parliament, nor to any number exceeding ten of the other commissioners, but there shall be allowed and paid to every such commissioner such reasonable sums for and in respect of such travelling expences as may come to be incurred in the execution of this act as in the judgment of the lord high treasurer or the commissioners of his Majesty's treasury for the time being shall be deemed requisite.

If estates canto report specially.

III. That if upon such inquiry as aforesaid it shall appear to the said not be applied, commissioners that from any cause whatsoever it has become impossible commissioners to apply the estates or funds aforesaid, or any part thereof, to the purposes to which the same were destined or directed to be applied, the said commissioners shall report the special circumstances of each case.

Commissioners; IV. That the said commissioners to be appointed by virtue of this to take an oath. act shall each of them, previously to his entering upon the execution of the same, take an oath before the chancellor of the exchequer or the master of the rolls for the time being, (which oath they are hereby respectively authorized and required to administer,) the tenor whereof shall be as follows; (that is to say,)

> ' I A. B. do swear, That, according to the best of my skill and knowledge, I will faithfully, impartially, and truly execute the several ' powers and trusts vested in me by an act, intituled An Act [here insert " the Title of this Act], according to the tenor and purport of the said 'act.'

Appointment of secretary, clerks, &c

V. That it shall and may be lawful for the said commissioners and they are hereby authorized to appoint and employ such secretary, clerks, messengers, and officers, not exceeding in the whole one secretary, five clerks, one messenger, and two other officers, as they shall think meet, and to administer to the said secretary, clerks, and officers respectively an oath for his true and faithful demeanor in all things relating to the due performance of any trust respecting the execution of this act reposed in him by the said commissioners, and in all other things touching the premises; which secretary, clerks, and officers are hereby required faithfully to execute and perform the said trust in them severally and respectively reposed, without taking any thing for such their service other than such salary or reward as the said commissioners shall think fit to direct and appoint in their behalf.

Commissioners' meetings.

Power to require the attendance of persons and production of papers.

VI. That for the purpose of prosecuting the inquiries and examinations by this act directed, the said commissioners or any two of them shall meet, and from time to time, with or without adjournment, hold their sittings within the city of Westminster, or in any other city, town, borough, hamlet, village, or place respectively in England or Wales which to them shall appear most convenient for executing the purposes of this act; and the said commissioners are hereby authorized to require, by precepts under their hands and seals, or under the hands and seals of any two of them, from any person or persons acting as a trustee or trustees for any of the said estates or funds, or having any concern in the management or administration of the same, or in the payment or receipt of any of the said funds or estates, or any charge upon any fund or estate applicable to any charitable uses or purposes as aforesaid, to render to the said commissioners a true account, as far as consists with their knowledge, of all that relates to such funds or estates as aforesaid under their trust or management, or on account of which they may have acted in making or receiving payments; and as often as need shall be, to send their precepts under their hands and seals, or under the hands and seals of any two of them, for any person or per-

sons whomsoever to attend them, and require such person or persons to bring with him, her, or them any deed, paper, writing, instrument, or 1 & 2 W. 4, other document being in his, her, or their custody and possession, and relating to any such estates or funds or the produce thereof, or to the receipt or application or nonapplication or misapplication thereof, which shall in the judgment of such commissioners be conducive and necessary to the due execution of the purposes of this act; and every person to whom such precept shall as aforesaid have been addressed and delivered is hereby required and directed punctually to attend the said commissioners at such time and place as shall for that purpose have been appointed; and to every such person or persons may be paid such sum of money as in the judgment of the said commissioners shall be No person just and reasonable: Provided always, that no such person shall be obliged to obliged to travel in obedience to such precept more than ten miles from travel more his or her place of abode.

VII. And for rendering more effectual all such examinations as are Commissioners intended to be had under this act, be it enacted, That the said com-empowered to missioners are hereby authorized to examine upon oath, or affirmation examine upon of persons being quakers (which oath or affirmation the said commis-oath. sioners or any two of them are hereby respectively authorized to administer), all persons whom they are by the provisions of this act empowered to call before them to be examined, touching all matters and things necessary for the execution of the powers vested in them by

this act.

judgment think it expedient that each or either of them should pursue sioner may act any examination separately and without the assistance or presence of incertain cases. the other of such two commissioners, each of such two commissioners shall on such occasion have the same powers of issuing precepts, administering oaths, and conducting the examinations prescribed by this act, and under the same rules and regulations, as are hereby vested in the said commissioners or any two of them; and that it shall be lawful for the said commissioners or any five of them, when they may see occasion, to authorize and direct any one commissioner to sit within the city of Westminster alone, or to resort alone to any other city, town, borough, hamlet, village, or place in England or Wales, for the purpose of examining into the case or cases of any particular charity or charities; and then also and in such case such commissioner shall have the same powers of issuing precepts, administering oaths, and con-

IX. That the said commissioners respectively shall and they are Examinations, hereby required to cause the examinations which shall be taken before &c. to be transthem respectively, and all papers and documents being parts of such mitted to the examinations, to be from time to time transmitted to the secretary of the secretary.

ducting the examinations prescribed by this act, and under the same rules and regulations, as are herein-before vested in the said commis-

said commissioners at their office in Westminster aforesaid.

X. That in case any person upon examination on oath, or being a Penalties of quaker upon affirmation, before the said commissioner or commis- perjury for false sioners, shall wilfully and corruptly give false evidence, every such swearing. person so offending, and being thereof duly convicted, shall be and is hereby declared to be subject and liable to such pains and penalties as under any law now in force may be inflicted on persons convicted of Persons re-

wilful and corrupt perjury.

sioners or any two of them.

XI. That if any person summoned to appear before the said com- before commismissioners or any one of them shall wilfully omit or refuse to appear sioners, or to before such commissioners or commissioner, or to bring or produce any produce deeds deed, paper, or writing, instrument or other document in his or her or answer quespossession, custody, or power, and which he or she shall be required tions, liable to by the precept of any such commissioners or commissioner to produce, be fined by the relating wholly to the estates or funds which shall be the subject of court of king's enquiry before the said commissioners or commissioner, or to the bench or ex-

No. I. c. 34.

than ten miles.

VIII. That whenever any such two commissioners shall in their One commis-

No. I. 1 & 2 W. 4, c. 34.

receipt or application or nonapplication or misapplication thereof, or to the state of the schools or charities which shall be the subject of enquiry before such commissioners or commissioner, or the true copy of any part or parts of any deed, paper, writing, or other instrument (and which copy any such commissioners or commissioner are or is hereby empowered to require by such precept), or shall refuse to be sworn, or being a quaker to affirm, or being sworn, or being a quaker having affirmed, shall refuse to answer to and before the said commissioners or commissioner, or to answer fully, any lawful question on oath or affirmation touching or concerning any matter or thing relating to such estates or funds as aforesaid, or to the state of such schools or charities as aforesaid (except in cases excepted by this act), every such person so refusing to comply with any such lawful requisitions of the said commissioners or commissioner shall be liable to the payment of such fine to his Majesty as the court of king's bench or the court of exchequer, on application made by or on the behalf of the said commissioners or commissioner, or by his Majesty's attorney general for the time being, shall think fit to set and impose, which fine the said court of king's bench or court of exchequer is hereby authorized and empowered to set and impose according to their discretion respectively, and to enforce payment of the same, by attachment or otherwise, in such manner as the said courts respectively may do in cases of contempt of the same courts.

Purchasers without notice not bound to answer interrogatories.

XII. Provided always, That if any person who shall be summoned to appear before the said commissioners or any one of them shall, upon his or her examination, allege that he or she hath purchased or obtained for valuable consideration any estate or interest of, in, to, or out of any lands, tenements, rents, annuities, hereditaments, goods, or chattels touching which he or she shall be sought to be so examined, without fraud or covin, having no notice of any charitable trust or use to which the said lands, tenements, rents, annuities, hereditaments, goods, or chattels, or any charge thereon, have been given, limited, or applied, then such person shall not be bound to make further answer to any interrogatory of such commissioners or commissioner, nor to produce or show to them or him any deed, paper, writing, instrument, or other document relating to his or her estate or interest in such lands, tenements, rents, annuities, hereditaments, goods, or chattels.

Mortgagees, trustees, &c. not compellable to produce deeds, without notice to mortgagors, cestuique trusts, &c.

XIII. Provided also, That no person having the custody of any deed, paper, writing, instrument, or other document, as mortgagee, trustee or agent, solicitor or attorney, shall be compellable to produce the same, or to give any evidence as to the contents thereof, without notice being first given to his mortgagor, cestui que trust or principal and the said mortgagor, cestui que trust or principal being examined touching the same by the said commissioners or commissioner; and in case such mortgagor, cestui que trust, or principal shall, by the provisions of this act, be exempted from producing the said deed, paper, writing, instrument, or other document, then the mortgagee, trustee or agent, solicitor or attorney, shall not be bound to produce or show the same, or give any evidence of the contents thereof, to the said commissioners or commissioner: Provided also, that no person shall be compellable to answer compellable to any question, or to produce any deed, paper, writing, instrument, or criminate them. other document, the answer to which or the production of which may criminate or tend to criminate such person, or to expose such person to any pains or penalties.

Persons not selves.

Officers having custody of records, to furnish extracts if required by a commissioner.

XIV. That whenever any extract from the involment of any charter or deed, or from any decree, report, record, or other document whatever, deposited or remaining in any of the offices belonging to or under the control of the courts of chancery or exchequer, or in any public registry, shall be required for the purposes of this act by an order signed by one of the commissioners under this act, the officer or officers having the custody of such inrolment, decree, report, record, or other document shall furnish an extract of so much only as shall be so required of any such inrolment, decree, report, record, or other document; and that any

such extract or any copy which shall be required for the purposes of this act, by any order signed by one of the said commissioners, of 1 & 2 W. 4, any such inrolment, decree, report, record, or other document, shall not be subject or liable to the payment of any stamp duty whatever, any law. statute or usage to the contrary in anywise notwithstanding.

on such No stamp duty XV. That in case of a vacancy or vacancies by death, removal, or extracts, &c. resignation of any such commissioners, it shall be lawful for his Majesty, Vacancies of his heirs and successors, to nominate and appoint such person or per-commissioners sons as he or they may think proper for the supplying of such vacancy may be filled

XVI. That this act or any of the provisions therein contained shall Act not to exnot extend or be construed to extend to either of the universities of tend to univer-Oxford or Cambridge, nor to any college or hall within the same, nor to sities and cerany schools or other endowments of which the said universities, col- tain schools, leges, or halls are trustees; nor to the colleges of Westminster, Eton, or &c.; Winchester; nor to the Charter House; nor to the royal hospitals of Christ, Bridewell, St. Thomas the Apostle, St. Bartholomew, and Bethlem; nor to the schools of Harrow or Rugby, or any of them; nor to any cathedral or collegiate church within England or Wales; nor to the corporation of the Trinity House of Deptford Strond; nor to any funds applicable to the benefit of any persons of the Jewish persuasion, or the people called quakers, or persons of the Roman Catholic persuasion, and which shall be under the superintendence and control of persons of such persuasions respectively.

XVII. Provided also, That this act or any of the provisions therein nor to chantles contained shall not extend or be construed to extend to any institution, chiefly supestablishment, or society for charitable purposes, wholly or principally ported by vomaintained by voluntary contributions, and under the superinten- funtary contridence and control of any committee or governors or other person or butions; persons chosen or appointed out of or by voluntary subscribers thereto; and that the application of any donation or bequest to the general purposes of any such institution, establishment or society, in aid of such voluntary contributions, shall not be subject to the examination or interference of the commissioners appointed under this act: Provided except as to always, that the management and application of the rents and profits management of any lands, tenements, or hereditaments belonging to such institution, and application establishment, or society, for the period of twenty years or upwards of rents for 20 before the passing of this act, shall in all such cases be subject to the years.

examination of the said commissioners at their discretion.

commissioner or commissioners to be appointed under the authority of actions. this act, or against any person or persons acting under the authority or by the order of such commissioners, or any one or more of them, for any thing done or acted by him or them under this act, shall be commenced within six calendar months next after the fact committed (in respect of which such action or suit shall be brought or commenced) and not afterwards; and the defendant or defendants in every such General issue. action or suit may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and if such action or suit shall be brought or commenced after the time so limitted for bringing the same, then the jury shall find a verdict for the defendant or defendants; and in such case, or if the jury shall find a verdict for the defendant or defendants upon the merits, or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her, or their action after appearance, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble Treble costs.

costs, which he or they shall and may recover in such and the same

manner as any defendant can by law in other cases XIX. That this act shall continue in force until the first day of Sep-Continuance of tember one thousand eight hundred and thirty-three, and from thence act. until the end of the then next session of parliament.

XVIII. That any action or suit which shall be brought against any Limitation of

No. II. c. 57.

1 & 2 W. 4, [No. II.] 1 & 2 W. IV. c. 57.—An Act to continue and extend the Provisions of an Act passed in the Fifty-ninth Year of his Majesty King George the Third, for giving additional facilities in Applications to Courts of Equity regarding the Management of Estates or Funds belonging to Charities; and for making certain Provisions respecting Estates or Funds belonging to Charities. [23d June 1832.]

WHEREAS by an act passed in the fifty-ninth year of the reign of

his late Majesty king George the third it was, amongst other

things, enacted, that whenever, upon any examination or investigation taken or had by and before the commissioners appointed or to appointed under the authority of certain acts of the fifty-eighth and fifty-ninth years of his said late Majesty therein-before mentioned, any case should arise or happen in which it should appear to the said commissioners that the directions or orders of a court of equity were requisite for the remedying of any neglect, breach of trust, fraud, abuse, or misconduct in the management of any trust created for any charitable purposes as therein-before mentioned, or of the estates or funds thereunto belonging, or for the regulating the administration of any such trust, or of the estates or funds thereof, it should and might be lawful for the said commissioners, or any five or more of them, if they should think fit, to certify the particulars of such case in writing under their hands to his Majesty's attorney general, and thereupon it should be lawful for his Majesty's attorney general, if he should so think fit, either by a summary application in the nature of a petition, or by information, as the case might require, to apply to or commence a suit in his Majesty's high court of chancery, or to or in his Majesty's court of exchequer sitting as a court of equity, stating and setting forth the neglect, breach of trust, fraud, abuse, or misconduct, or other cause of complaint or application, and praying such relief as the nature of the case might require; and after such petition should have been presented or suit instituted, such proceedings were to be had thereupon as in the said act now in recital mentioned: And whereas the powers of the said commissioners expired on the first day of July one thousand eight hundred and thirty, and many charities still remain to be investigated: And whereas an act was passed in the last session of parliament, 1 & 2 W. 4, intituled An Act for appointing Commissioners to continue the Inquiries concerning Charities in England and Wales for Two Years, and from thence to the end of the then next session of Parliament, whereby his Majesty was empowered to issue a commission, enabling the commissioners therein to be named to investigate such remaining charities: And whereas it is expedient that the provisions of the said recited act of the fifty-ninth year of the reign of his said late Majesty should be continued in manner herein-after mentioned; and it is also expedient to facilitate the proofs in proceedings instituted or to be instituted under the said last-mentioned act, or of this act, in manner herein-after mentioned: And whereas it is expedient to make such provisions Commissioners respecting estates or funds belonging to charities as herein-after mentioned: Be it therefore enacted, &c., That it shall and may be lawful for the said commissioners appointed or to be appointed under the authority of the said act of the last session of parliament, or under the authority of any act to be hereafter passed for the like purpose, or any five or more of them, to make such certificates from time to time to his Majesty's attorney general as the commissioners appointed under the authority of the said acts of the fifty-eighth and fifty-ninth years of the reign of his said late Majesty were empowered to do; and thereupon such proceedings shall or may be had and taken as were authorized or were empower- directed by the said recited act of the said fifty-ninth year of his said late Majesty's reign, in the same manner to all intents and purposes as

a ppointed under recited act of 1 & 2 W. 4, authorized to make certificates to the attorney general as commissioners under former acts ed to do.

c. 34.

Class V.]

II. That in all cases of proceedings instituted or to be instituted by his Majesty's attorney general in pursuance of the said recited act of the fifty-ninth year of his said late Majesty's reign, or of this Attorney geneact, the production to the court of a certificate under the hand ral's certificate of his Majesty's attorney general, stating that the particulars of the to be evidence case in question, in writing, have been certified to his Majesty's of particulars of attorney general for the time being according to the provisions of the cases having said recited act of the fifty-ninth year of his said late Majesty, or of this said act, as this case may be, shall be deemed sufficient evidence that missioners. such particulars have been duly certified to his Majesty's attorney general accordingly, to and for all intents and purposes whatsoever.

III. That where the person, or all the persons, if more than one Courts of chanin whom any lands, hereditaments, rent-charge, or other real property cery or exmay have been vested in trust for any charity or charitable or public chequer empurpose, shall be dead, it shall be lawful for the said court of chancery powered to dior the said court of exchequer, on the petition of his Majesty's attorney rect convey-general, or of the persons or body administering such charity or super-intending such public purpose, or of any person on behalf thereof, to direct any master or other officer of the said courts respectively to cause direct any master or other officer of the said courts respectively to cause two successive advertisements to be inserted in the London Gazette, and in one or more of the newspapers circulated in the county, city, or place where such land, hereditaments, or real property, or the lands or hereditaments out of which such rent-charge is issuing, shall be situated, giving notice that the representative or representatives of the person of the last survivor of the persons in whom any land, hereditaments, rentcharge, or other real property may have been vested in trust as aforesaid do within twenty-eight days appear or give notice of his or their title to such master or other officer, and prove his or their pedigree or other title as trustee; and if no person shall appear to give such notice within such twenty-eight days, or the person or persons who may appear or give such notice shall not within thirty-one days after such appearance or notice prove his or their title to the satisfaction of such master or other officer, then and in such case it shall be lawful for the said courts respectively to appoint any new trustees for such charity or charitable or public purpose, in case no trustees for such charity or purpose duly appointed shall then be existing; and such land, hereditaments, rent-charge, or other real property may be conveyed to such new trustees when so appointed by the said courts respectively, or to the existing trustees previously duly appointed, as the case may be, by any person whom the said courts respectively may direct for that purpose by virtue of the provisions in this act, without the necessity of any decree.

IV. That whenever it shall appear to the said commissioners to be For empowerappointed under the authority of the said act of the last session of par-ing resident liament that the property belonging to any charity consists only of one ministers and or more annuity or rent-charge, annuities or rent-charges, not exceed- churchwardens ing in the whole the yearly sum of twenty pounds, and that there are to receive rentno existing trustees or persons legally qualified to receive and give an longing to effectual discharge for such annuity or rent-charge, annuities or rent-charities, where charges, it shall and may be lawful for any five of the said commis- there are no exsioners, by writing under their hands and seals, to empower the resi-isting trustees. dent minister and the churchwardens or chapelwardens for the time being of the parish or place interested in such charity, in case only one parish or place is so interested, but if more than one parish or place is so interested, then the resident minister and the churchwardens or chapelwardens of some one of the parishes or places interested, to receive the said annuity or rent-charge, annuities or rent-charges, or any arrears thereof, and to apply the same according to the purposes of the charitable donations or bequests thereof, in the same manner as the trustees of the said charity would have been bound to do; and the power so to

No. II. 1 & 2 W. 4, c. 57. been duly certified by com-

No. II. 1 & 2 W. 4, c. 57.

be given to such minister and churchwardens or chapelwardens shall remain in force until trustees of the said charity duly appointed shall appear and claim the administration of the funds thereof, or until trustees of the said charity shall be appointed by the court of chancery or court of exchequer: and all receipts to be given by such minister and churchwardens or chapelwardens shall be effectual discharges to the persons liable to the payment of such annuities or rent-charges for all such sums as in such receipts shall be expressed to have been received in respect thereof; and in case of non-payment of such annuities or rentcharges, or any arrears thereof, it shall and may be lawful for such minister and churchwardens or chapelwardens respectively, during the continuance of the power to be given to them by virtue of the provisions of this act, to use and exercise all such powers and remedies for recovering and compelling payment of the said annuities or rent-charges, and the arrears thereof, as the trustees of the said charities respectively might or could have done if duly appointed.

[No. III.] 2 & 3 W. IV. c. 115.—An Act for the better securing the Charitable Donations and Bequests of his Majesty's Subjects in Great Britain professing the Roman Catholic Religion. [15th August 1832.]

WHEREAS by an act passed in the first year of the reign of king

jesty's Protestant Subjects dissenting from the Church of England from

the Penalties of certain Laws, and by certain subsequent statutes, the

William and queen Mary, intituled An Act for exempting His Ma-

1 W. & M. c. 18.

1700, c. 3.

Roman catholics to be subschools and places of worship.

schools and places for religious worship, education, and charitable purposes of Protestant dissenters are exempted from the operation of certain penal and disabling laws to which they were subject previously to the passing of the said recited act of the first year of the reign of king William and queen Mary: and whereas by certain acts of the parliament of Scotland, and particularly by an act passed in the year one thousand seven hundred, intituled An Act for preventing the Growth of Popery, various penalties and disabilities were imposed upon persons professing the Roman catholic religion in Scotland: And whereas, notwithstanding the provisions of various acts passed for the relief of his Majesty's Roman catholic subjects from disabling laws, doubts have been entertained whether it be lawful for his Majesty's subjects professing the Roman catholic religion in Scotland to acquire and hold in real estate the property necessary for religious worship, education, and charitable purposes: And whereas it is expedient to remove all doubts respecting the right of his Majesty's subjects professing the Roman catholic religion in England and Wales to acquire and hold property necessary for religious worship, education, and charitable purposes: Be it therefore enacted, &c., That from and after the passing of this act his Majesty's ject to the same subjects professing the Roman catholic religion, in respect to their laws as protes- schools, places for religious worship, education, and charitable purtant dissenters, poses, in Great Britain, and the property held therewith and the persons with respect to employed in or about the same, shall in respect thereof be subject to the same laws as the Protestant dissenters are subject to in England in respect to their schools and places for religious worship, education, and

charitable purposes, and not further or otherwise. (1) II. Provided always, That in all cases in which schoolmasters or Roman catholic school- other persons employed in such schools or other places are, as a legal

⁽¹⁾ Where a testator, who died in 1823, gave two legacies to the respective trustees of certain Catholic schools upon trust for carrying on the good designs of the said schools, it was held that the above act was retrospective, and that the trustees were entitled to the legacies. Bradshaw v. Tasker, 2 Mylne & Keene 221.

qualification for such employments, now required by law to take the oath of supremacy, or the oath or declaration against transubstantiation 2 & 3 W. 4, and the invocation of saints and sacrifice of the mass, or to receive the sacrament of our Lord's Supper, or, in Scotland, to subscribe the formula annexed to the aforesaid act for preventing the growth of popery, masters, when any such schoolmaster, or other master, professing himself a Roman required to take catholic, shall, in lieu of the qualification aforesaid for holding such oath, to take employment, take the oath contained in the statute passed in the tenth that prescribed year of his late Majesty, intituled An Act for the Relief of His Majesty's by 10 G. 4, c. 7. Roman Catholic Subjects, and at the times and in manner in that act mentioned.

No. III.

III. Provided always, That nothing in this act contained shall affect Act not to affect any suit actually pending or commenced, or any property now in litiga- pending suits. tion, discussion, or dispute, in any of his Majesty's courts of law or

equity in Great Britain.

IV. Provided always, That nothing in this act contained shall be Nor to repeal taken to repeal or in any way alter any provision of an act passed in the provisions in tenth year of the reign of his late Majesty king George the fourth, inti- 10 G. 4, c. 7, tuled An Act for the Relief of His Majesty's Roman Catholic Subjects, for suppression respecting the suppression or prohibition of the religious orders or of certain relisocieties of the church of Rome bound by monastic or religious vows.

V. Provided always, That all property to be acquired or held for such Property held purposes of religious worship, education, and charitable purposes, in for the purposes England and Wales, shall be subject to the provisions of an act passed mentioned in in the ninth year of the reign of king George the second, intituled An this act, in Act to restrain the Disposition of Lands whereby the same may become England and unalienable, and to the same laws as the Protestant dissenters are subject Wales, to be to in England in respect of the acquiring or holding of such property: subject to the Provided always, That nothing in this act contained shall be taken to 9 G. 2, c. 36. extend the provisions of the said last-recited act to that part of Great Britain called Scotland.

[No. IV.] 5 & 6 W. 4, c. 71.—An Act for appointing Commissioners to continue the inquiries concerning Charities in England and Wales until the First Day of March One thousand eight hundred and thirty-seven.

[9th September 1835.]

WHEREAS, &c., [Recites the title of the 58 G. 3, c. 91. 59 G. 3, c. 81. 5 G. 4, c. 58. 10 G. 4, c. 57. 1 & 2 W. 4, c. 34.]: And whereas the commissioners appointed under and by virtue of the said two firstmentioned and the said last-mentioned acts respectively pursued the inquiries thereby authorized and directed, and made several reports of their proceedings; but the powers of the commissioners appointed under the said last-mentioned act expired on the fifteenth day of August one thousand eight hundred and thirty-four: And whereas many charities still remain to be investigated, and further time will be required for that purpose; and it is therefore expedient that commissioners should be appointed for the purposes aforesaid, to act according to the provisions and limitations herein-after expressed and contained: And whereas an act was passed in the second year of the reign of his present Majesty, intituled An Act to continue and extend the Provisions 2 W. 4, c. 57. of an Act passed in the Fifty-ninth Year of His Majesty King George the Third, for giving additional Facilities in Applications to Courts of Equity regarding the Management of Estates or Funds belonging to Charities; and for making certain Provisions respecting Estates or Funds belonging to Charities: And whereas it is expedient that certain of the provisions of the said last-recited act should be continued in manner herein-after mentioned: be it therefore enacted, &c., That it shall and may be lawful for Commissioners his Majesty to issue a commission under the great seal to any number to be appointed

of persons, not fewer than thirty, who shall be constituted commis-

No. IV. c. 71.

charities.

5 & 6 W. 4, sioners for the purposes intended by this act, one of whom shall be and be denominated the chief commissioner, and shall superintend and direct the mode of proceeding of the other commissioners acting in the to inquire into execution of this act; and that they the said commissioners shall and the nature and they are hereby empowered and required, in manner herein-after menmanagement of tioned, to examine into and investigate the amount, nature, and application of all estates and funds of what nature or kind soever, and the produce thereof, destined or intended to be applied to the purpose of educating the poor in England and Wales, or to the support of any charity or charities or charitable donation or donations for the benefit of poor persons in England and Wales, or held under trusts created for any charitable uses or purposes whatever in England or Wales (except as is herein-after provided and excepted), and to examine into and investigate all breaches of trust, irregularities, frauds, abuses or supposed abuses, or misconduct in relation to and in the management or appropriation or nonappropriation or misappropriation of such estates To report half- and funds; and the said commissioners shall once in each half year during the continuance of the said commission report and certify, in writing under their hands and seals, to the king's most excellent Majesty, their proceedings touching the amount, nature, management, application, and appropriation of such of the aforesaid estates and funds as they shall have inquired and examined into, and also what is the nature of such estates and funds respectively, and the actual annual produce thereof, and what is the actual annual value thereof, and in whose possession, as tenants thereof, any part thereof, consisting of lands, tenements, or hereditaments, shall be, adding at the same time such observations as shall occur to them respecting such mode as they

yearly.

Commissioners to report special circumstances, where funds cannot be applied to destined purposes.

Salaries to a of commissioners.

II. That if upon such inquiry as aforesaid, it shall appear to the said commissioners that, from any cause whatsoever, it has become impossible to apply the estates or funds aforesaid, or any part thereof, to the purposes to which the same were destined or directed to be applied, the said commissioners shall report the special circumstances of each case, subject, as to the mode of making such report, to the directions of the chief commissioner in that behalf.

their respective produce against any future misapplication thereof.

shall deem most effectual for the recovering of such part or parts of such estates or funds as shall appear to them to have been applied in breach of the several trusts created in respect of the same, or shall appear to have been omitted to be applied in pursuance of such trusts, and subjoining such suggestions as may seem to them expedient respecting the most effectual mode of securing such estates and funds and

III. That no remuneration shall be given, for and in respect of the limited number execution of this act to such of the said commissioners as shall be members of either house of parliament, nor to any number exceeding twenty of the commissioners; but there shall be allowed and paid to every such commissioner such reasonable sums for and in respect of such travelling expences as may be incurred in the execution of this act as in the judgment of the lord high treasurer or the commissioners of his Majesty's treasury for the time being shall be deemed requisite.

IV. That each of the said commissioners to be appointed by virtue of Commissioners to take oath be- this act shall, previously to his entering upon the execution of the same. take an oath before the chancellor of the exchequer or the master of the upon their du-rolls for the time being (which oath they are hereby respectively authorized and required to administer), the tenor whereof shall be as followeth; (that is to say,)

fore entering ties,

> ' \ \ A. B. do swear, That according to the best of my skill and knowledge, I will faithfully, impartially, and truly execute the several 'powers and trusts vested in me by an act intituled [here insert the title ' of this act, according to the tenure and purport of the said act.'

No. IV.

c. 71.

V. That in case of a vacancy or vacancies by the death, removal, or resignation of any such commissioners, it shall be lawful for his 5 & 6 W. 4, Majesty, his heirs and successors, to nominate and appoint such person or persons as he or they may think proper for the supplying of such vacancy or vacancies.

Vacancies of commissioners may be filled up by the crown.

VI. That it shall and may be lawful for the said commissioners and Appointment of they are hereby authorized to appoint and employ such secretary, clerks, secretary, messengers, and officers, not exceeding in the whole one secretary, clerks, &c. twenty clerks, one messenger, and two other officers, as they shall think meet, and to administer to each of the said secretary, clerks, and officers an oath for his true and faithful demeanour in all things relating to the due performance of any trust respecting the execution of this act reposed in him by the said commissioners, and in all other things touching the premises; which secretary, clerks, and officers are hereby required faithfully to execute and perform the said trust in them severally and respectively reposed, without taking any thing for such their service other than such salary or reward as the said commissioners shall think fit to direct and appoint in their behalf.

VII. That, for the purpose of prosecuting the inquiries and exami- Commissioners nations by this act directed, the said commissioners, or any one or more to hold sittings of them, shall from time to time hold their or his sittings, with or and summon without adjournment, within the city of Westminster, or in any other persons and city, town, borough, hamlet, village, or place respectively in England or send for papers. Wales, which to them or him shall appear most convenient for executing the purposes of this act; and the said commissioners or commissioner are or is hereby authorized to require, by precepts under their or his hands and seals or hand and seal, from any person or persons acting as a trustee or trustees for any of the said estates or funds, or having any concern in the management or administration of the same, or in the payment or receipt of any of the said funds or estates, or any charge upon any fund or estate applicable to any charitable uses or purposes as aforesaid, to render to the said commissioners or commissioner a true account, as far as consists with their knowledge, of all that relates to such funds or estates as aforesaid under their trust or management, or on account of which they may have acted in making or receiving payments; and, as often as need shall be, to send their or his precepts, under their or his hands and seals or hand and seal, for any person or persons whomsoever to attend them or him, and require such person or persons to bring with him, her, or them any deed, paper, writing, instrument, or other document being in his, her, or their custody and possession, and relating to any such estates or funds, or the produce thereof, or to the receipt or application or nonapplication or misapplication thereof, which shall in the judgment of such commissioners or commissioner be conducive and necessary to the due execution of the purposes of this act; and every person to whom such precept shall as aforesaid have been addressed and delivered is hereby required and directed punctually to attend the said commissioners or commissioner at such time and place as shall for that purpose have been appointed; and to every such person or persons may be paid such sum of money as in the judgment of the said commis- No person obsioners or commissioner shall be just and reasonable: Provided always, liged to travel That no such person shall be obliged to travel in obedience to such more than ten precept more than ten miles from his or her place of abode.

VIII. And for rendering more effectual all such examinations as are Commissioners intended to be had under this act; be it enacted, That the said com-empowered to missioners, or one or more of them, are or is hereby authorized to examine upon examine upon oath, or upon the affirmation of persons exempted by law oath. from liability to examination upon oath (which oath or affirmation the said commissioners, or any one or more of them, are or is hereby respectively authorized to administer), all persons whom the said commissioners, or any one or more of them, are or is by the provisions of this act empowered to call before them or him to be examined touching all

No. IV. 5 & 6 W. 4,

c. 71.

Examinations and papers to be transmitted to office in Westminster.

Penalties of swearing.

Persons refusing to appear sioners, or to &c. or to answer questions, liable to be fined by the court of king's bench or exchequer.

matters and things necessary for the execution of the powers vested in them or him by this act.

IX. That the said commissioners respectively shall and they are hereby required to cause the examinations which shall be taken before them respectively, and all papers and documents being parts of such examinations, to be from time to time transmitted to the secretary of the said commissioners at their office in Westminster aforesaid.

X. That in case any person upon examination on oath or upon affirperjury for false mation, as the case may be, before the said commissioners or commissioner, shall wilfully and corruptly give false evidence, every such person so offending, and being thereof duly convicted, shall be and is hereby declared to be subject and liable to such pains and penalties as under any law now in force may be inflicted on persons convicted of

wilful and corrupt perjury.

XI. That if any person summoned to appear before the said commissioners, or any one or more of them, shall wilfully omit or refuse to before commis- appear before such commissioners or commissioner, or to bring or to produce any deed, paper, or writing, instrument or other document, in produce deeds, his or her possession, custody, or power, and which he or she shall be required by the precept of any such commissioners or commissioner to produce, relating wholly to the estates or funds which shall be the subject of inquiry before the said commissioners or commissioner, or to the receipt or application or nonapplication or misapplication thereof, or to the state of the schools or charities which shall be the subject of inquiry before such commissioners or commissioner, or the true copy of any part or parts of any deed, paper, writing, or other instrument (and which copy any such commissioners or commissioner are or is hereby empowered to require by such precept), or shall refuse to be sworn, or, being a person exempted by law from liability to examination upon oath, to affirm, or, being sworn or having affirmed, as the case may be, shall refuse to answer to and before the said commissioners or commissioner, or to answer fully any lawful question on oath or affirmation respectively touching or concerning any matter or thing relating to such estates or funds as aforesaid, or to the state of such schools or charities as aforesaid (except in cases excepted by this act), every such person so refusing to comply with any such lawful requisitions of the said commissioners or commissioner shall be liable to the payment of such fine to his Majesty as the court of king's bench or the court of exchequer, on application made by or on the behalf of the said commissioners or commissioner, or by his Majesty's attorney general for the time being, shall think fit to set and impose, which fine the said court of king's bench or court of exchequer is hereby authorized and empowered to set and impose according to their discretion respectively, and to enforce payment of the same, by attachment or otherwise, in such manner as the said courts respectively may do in cases of contempt of the same courts.

Purchasers not bound to answer interro gatories.

XII. Provided always, That if any person who shall be summoned to without notice appear before the said commissioners, or any one or more of them, shall upon his or her examination allege that he or she hath purchased or obtained for valuable consideration any estate or interest of, in, to, or out of any lands, tenements, rents, or annuities, hereditaments, goods, or chattels, touching which he or she shall be sought to be so examined, without fraud or covin, having no notice of any charitable trust or use to which the said lands, tenements, rents, annuities, hereditaments, goods, or chattels, or any charge thereon, have or has been given, limited, or directed to be applied, then such person shall not be bound to make further answer to any interrogatory of such commissioners or commissioner, nor to produce or show to them or him any deed, paper, writing, instrument, or other document relating to his or her estate or interest in such lands, tenements, rents, annuities, hereditaments, goods, or chattels.

XIII. Provided also, That no person having the custody of any deed, paper, writing, instrument, or other document, as mortgagee, trustee or 5 & 6 W. 4, agent, solicitor or attorney, shall be compellable to produce the same, or to give any evidence as to the contents thereof, without notice being first given to his mortgagor, cestui que trust, or principal, and the said Mortgagees, mortgagor, cestui que trust, or principal being examined touching the trustees, &c. same by the said commissioners or commissioner; and in case such not compellamortgagor, cestui que trust, or principal shall by the provisions of this ble to produce act be exempted from producing the said deed, paper, writing, instru- deeds without ment, or other document, then the mortgagee, trustee or agent, solicitor notice to mortor attorney, shall not be bound to produce or show the same, or give gagors, cestui any evidence of the contents thereof, to the said commissioners or commissioner: Provided also, That no person shall be compellable to Persons not answer any question, or to produce any deed, paper, writing, instru-compellable to ment, or other document, the answer to which or the production of criminate themwhich may criminate or tend to criminate such person, or to expose selves. such person to any pains or penalties.

XIV. That the said commissioners shall and may receive and send Letters to and by the general post from and to places within the United Kingdom all from commisletters and packets relating solely and exclusively to the execution of sioners to be this act free from the duty of postage, provided that such letters and free of postage packets as shall be sent to the said commissioners shall be directed to if sent conformthe "Commissioners of Charities," at their office in Westminster, and ably hereto. that all such letters and packets as shall be sent by the said commissioners shall be in covers with the words "Office of Commissioners of Charities, pursuant to an Act of Parliament passed in the Sixth Year of the Reign of his Majesty King William the Fourth," printed on the same, and be signed on the outside thereof under such words with the name of such persons of the said commissioners, with the consent of the lords commissioners of the treasury or any three or more of them, shall authorize and appoint, in his own handwriting, (such name to be from time to time transmitted to the secretaries of the General Post Office in London and Dublin,) and under such other regulations and restrictions as the said lords commissioners, or any three or more of them, shall think proper and direct; and the person so to be authorized is hereby strictly forbidden so to subscribe any letter or packet whatsoever except such only concerning which he shall receive the special direction of his superior officer, or which he shall himself know to relate solely and exclusively to the execution of this act; and if the Penalty and person so to be authorized, or any other person, shall send, or cause or loss of office for permit to be sent, under any such cover, any letter, paper, or writing, sending letter or any inclosure other than what shall relate to the execution of this act, every person so offending shall be dismissed from his office, and business of the shall forfeit and pay the sum of one hundred pounds, one moiety of the act. said penalty to the use of his Majesty, his heirs and successors, and the other moiety to the use of the person who shall inform or sue for the same, to be sued for and recovered in any of his Majesty's courts of In case of letrecord at Westminster; and if any letter, paper, or writing, or other ters sent under inclosure, shall be sent under cover to the said commissioners, the same cover to the not relating solely and exclusively to the execution of this act, they are commissioners, hereby strictly required and enjoined to transmit the same forthwith to not relating the secretary of the post office in London, with the covers under which solely to the the same shall be sent, in order that the contents thereof may be business of the charged with the full rates of postage.

XV. That whenever any extract from the enrolment of any charter or Officers having deed, or from any decree, report, record, or other document whatever, custody of redeposited or remaining in any of the offices belonging to or under the cords to furnish control of the courts of chancery or exchequer, or in any public registry, extracts if reshall be required for the purposes of this act by any order signed by one quired by a of the commissioners under this act, the officer or officers having the commissioner. custody of such enrolment, decree, report, record, or other document, shall furnish an extract of so much only as shall be so required of any

No. IV.

sending letters solely to the

No. IV.

on extracts or copies required by a commissioner.

Act not to exsities, public schools, &c.;

nor to charities chiefly supported by voluntary contributions;

except as to management and application of rents for twenty years.

Attorney-geneto be evidence of particulars of cases having been duly certified by commissioners.

Chief commisceedings instiney general.

For empowering resident ministers and ing trustees.

such enrolment, decree, report, record, or other document; and that 5 & 6 W. 4, any such extract, or any copy, which shall be required for the purposes of this act by any order signed by one of the said commissioners, of any such enrolment, decree, report, record, or other document, shall not be No stamp duty subject or liable to the payment of any stamp duty whatever, any law, statute, or usage to the contrary in anywise notwithstanding.

XVI. That this act or any of the provisions therein contained shall tend to univer not extend or be construed to extend to either of the universities of Oxford or Cambridge, nor to any college or hall within the same, nor to any schools or other endowments of which the said universities, colleges, or halls are trustees, nor to the colleges of Westminster, Eton, or Winchester, nor to the Charter House, nor to the schools of Harrow or Rugby, or any of them, nor to the corporation of the Trinity House of Deptford Strond, nor to any cathedral or collegiate church within England or Wales, nor to any funds applicable to the benefit of any persons of the Jewish persuasion, or the people called quakers, or persons of the Roman catholic persuasion, and which shall be under the superintendence and control of persons of such persuasions respectively.

XVII. Provided also, That this act or any of the provisions therein contained shall not extend or be construed to extend to any institution established, or society, for charitable purposes, wholly or principally maintained by voluntary contributions, and under the superintendence and control of any committee or governors or other person or persons. chosen or appointed out of or by voluntary subscribers thereto; and that the application of any donation or bequest to the general purposes of any such institution, establishment, or society, in aid of such voluntary contributions, shall not be subject to the examination or interference of the commissioners appointed under this act: Provided always, that the management and application of the rents and profits of any lands, tenements, or hereditaments belonging to such institution, establishment, or society for the period of twenty years or upwards before the passing of this act, shall in all such cases be subject to the examination of the said commissioners at their discretion..

XVIII. That in all cases of proceedings instituted or to be instituted ral's certificate by his Majesty's attorney general in pursuance of the said recited act of the fifty-ninth year of the reign of his late Majesty king George the third herein-before secondly mentioned, or of the said recited act of the second year of the reign of his present Majesty, or of this act, the production to the court of a certificate under the hand of his Majesty's attorney general, stating that the particulars of the case in question in writing have been certified to his Majesty's attorney general for the time being, according to the provisions of the said recited acts of the fifty-ninth year of his said late Majesty or of the second year of his present Majesty, or of this act, as the case may be, shall be deemed sufficient evidence that such particulars have been duly certified to his Majesty's attorney general accordingly, to and for all intents and purposes whatsoever.

XIX. That in all cases of proceedings intistuted, or to be instituted sioner to super-by his Majesty's attorney general in pursuance of the before-recited acts, it shall and may be lawful for the said chief commissioner and he is hereby tuted by attor- directed to superintend all such proceedings, with a view to their prompt and effectual termination.

XX. That whenever it shall appear to the said commissioners to be appointed under the authority of this act that the property belonging to any charity consists only of one or more annuity or rent-charge, churchwardens annuities or rent-charges, not exceeding in the whole the yearly sum of to receive rent- fifty pounds, and that there are no existing trustees or persons legally charges belong- qualified to receive and give an effectual discharge for such annuity or ing to charities, rent-charge, annuities or rent-charges, it shall and may be lawful for where no exist- any five of the said commissioners by writing under their hands, to empower the resident minister and the churchwardens or chapelwardens

for the time being of the parish or place interested in such charity, in case only one parish or place is so interested, but if more than one 5 & 6 W. 4, parish or place is so interested, then the resident minister and the churchwardens or chapelwardens of some one of the parishes or places interested, to receive the said annuity or rent-charge, annuities or rentcharges, or any arrears thereof, and to apply the same according to the purposes of the charitable donations or bequests thereof, in the same manner as the trustees of the said charity would have been bound to do; and the power so to be given to such minister and churchwardens or chapelwardens shall remain in force until trustees of the said charity duly appointed shall appear and claim the administration of the funds thereof, or until trustees of the said charity shall be appointed by the court of chancery or court of exchequer; and all receipts to be given by such minister and churchwardens or chapelwardens shall be effectual discharges to the persons liable to the payment of such annuities or rent-charges for all such sums as in such receipts shall be expressed to have been received in respect thereof; and in case of non-payment of such annuities or rent-charges, or any arrears thereof, it shall and may be lawful for such minister and churchwardens or chapelwardens respectively, during the continuance of the power to be given to them by virtue of the provisions of this act, to use and exercise all such powers and remedies for recovering and compelling payment of the said annuities or rent-charges and the arrears thereof as the trustees of the said charities respectively might or could have done if duly appointed.

XXI. That any action or suit which shall be brought against any Limitation of commissioner or commissioners to be appointed under the authority of actions. this act, or against any person or persons acting under the authority or by the order of such commissioners, or any one or more of them, for any thing done or acted by him or them under this act, shall be commenced within six calendar months next after the fact committed in respect of which such action or suit shall be brought or commenced, and not afterwards; and the defendant or defendants in every such General issue. action or suit may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and if such action or suit shall be brought or commenced after the time so limited for bringing the same, then the jury shall find a verdict for the defendant or defendants; and in such case, or if the jury shall find a Treble costs. verdict for the defendant or defendants upon the merits, or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her, or their · action after appearance, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, which he or they shall and may recover in such and the same manner as any defendant can by law in other cases.

XXII. Provided always, That previously to presenting any report the Previously to said commissioners shall give directions, in all cases in which they shall presenting rethink it fit, to the attorney general to file informations in the courts of ports, commischancery or exchequer on the matter arising out of such reports, and sioners may dishall not, nor shall any of the clerks or secretaries under this act, give general to file any information touching any such matters to any person other than the informations. attorney general or the persons employed by the said commissioners previous to the directions so by the said commissioners given to the attorney general.

XXIII. That this act shall continue in force until the first day of Continuance of March, one thousand eight hundred and thirty-seven.

No. IV. c. 71.

PART II.

CLASS VI.

ACTS FOR CONVEYANCES BY INFANTS, LUNATICS, &c.

[In the provisions of the 1 W. 4, c. 60, with respect to infants, femes covert, and lunatics, who are trustees or mortgagees. See ante, Part II., Class I.

[No. I.] 1 W. IV. c. 65.—An Act for consolidating and amending the Laws relating to Property belonging to Infants, Femes Covert, Idiots, Lunatics, and Persons of [23rd July 1830.] unsound Mind.

WHEREAS, &c., [Recites the titles of the 9 G. 1, c. 29. 29 G. 2, c. 31. 11 G. 3, c. 20. 11 Anne (I.) c. 3. 43 G 3, c. 75. 47 G. 3, c. 8, s. 2. 59 G. 3, c. 80. 6 G. 4, c. 74. 9 G. 4, c. 78.] And whereas it is expedient the provisions of the said acts should be consolidated and amended; be Recited acts of it therefore enacted, &c. That the said recited acts of the eleventh year 11 Anne, 9 G. of the reign of queen Anne, the ninth year of the reign of king George 1. 29 G. 2. 11, the first, the twenty-ninth year of the reign of king George the second, 43, 47, and 59 the eleventh, forty-third, forty-seventh, and fifty-ninth years of the reign of king George the third, and the ninth year of the reign of his late Majesty king George the fourth, and also the said recited act of the sixth year of the reign of his present Majesty, so far as the said lastmentioned act relates to stocks, funds, annuities, and securities belonging infants, &c. re- beneficially to persons being infants, idiots, lunatics, or of unsound mind shall be and the same are hereby repealed (except as to such proceedings under the same as shall have been commenced before the passing of this act, and which may be proceeded in according to the provisions of the said recited acts respectively, or according to the provisions of this act, as shall be thought expedient): Provided always, That the several acts repealed by the said last-recited act shall not be revived.

Rules for the interpretation of this act.

G. 3. 9 G. 4.

6 G. 4, as re-

lates to funds

belonging to

pealed.

and so much of

II. And inasmuch as, in order to avoid unnecessary repetition, certain words are used in this act as describing subjects some of which, according to their usual sense, such words would not embrace: for the understanding of the sense attached to them in this act, be it further enacted, That the provisions of this act shall extend and be understood to extend to and include the several other estates, persons, matters, and things herein-after mentioned; (that is to say,) those relating to land, to any manor, messuage, tenement, hereditament, or real property of whatsoever tenure, and to property of every description transferrable otherwise than in books kept by any company or society, or any share thereof or charge thereon, or estate or interest therein; those relating to stock, to any fund, annuity, or security transferrable in books kept by any company or society, or to any money payable for the discharge or redemption thereof, or any share or interest therein; those relating to dividends, to interest or other annual produce; those relating to the bank of England, to the East India company, South Sea company, or any other company or society established or to be established; those relating to a conveyance, to any release, surrender, assignment, or other assurance, including all acts, deeds, and things necessary for making

and perfecting the same; those relating to a transfer, to any assignment, payment, or other disposition; and those relating to a lunatic, to 1 W. 4, c. 65. any idiot or person of unsound mind or incapable of managing his affairs; unless there be something in the subject or context repugnant to such construction; and whenever this act, in describing or referring to any person, or any land, stock, conveyance, lease, recovery, matter, or thing, uses the word importing the singular number or the masculine gender only, the same shall be understood to include and shall be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and several lands, stocks, conveyances, leases, recoveries, matters, or things, as well as one land, stock, conveyance lease, recovery, matter, or thing respectively, unless there be something in the subject or context repugnant to such construction.

III. That from and after the passing of this act, where any person Infants, femes being under the age of twenty-one years, or being a feme covert or covert, and lulunatic, is or shall be entitled by descent, or surrender to the use of a natics may be last will, or otherwise, to be admitted tenant of any copyhold lands, admitted to such person, in his or her own proper person, or being a feme covert by her attorney, or being an infant by his guardian or attorney, as the case guardian, commay require, or being a lunatic by the committee of his estate, shall may require, or being a lunatic by the committee of his estate, shall mittee, or atcome to and appear at one of the three next courts which shall be kept torney. (for the keeping whereof the usual notice shall be given) for the manor whereof such land shall be parcel, and shall there offer himself or herself to the lord or his steward to be admitted tenant to the said land; to make which appearance and to take which admittance in behalf of such infant or lunatic or feme covert, such guardian, committee, or attorney shall be and is hereby respectively authorized and required.

IV. That it shall be lawful for any feme covert, and for any infant Femes covert, who shall have no guardian, and she and he is hereby empowered, by infants, &c. writing under her or his hand and seal respectively, to appoint an may appoint atattorney or attornies on her or his behalf, for the purpose of appearing purpose. and taking such admittance as aforesaid.

tornies for that

V. That in default of such appearance of any infant, feme covert, or In default of lunatic, in his or her own person, or by his or her guardian, committee, appearance, or attorney in that behalf, and of acceptance of such admittance as the lord may aforesaid, it shall be lawful for the lord of every such manor, or his appoint an atsteward, after such three several courts have been duly holden for such torney. manor, and proclamations in such several courts been regularly made, to appoint, at any subsequent court to be holden for such manor, any fit person to be attorney for every such infant, feme covert, or lunatic, for that purpose only, and by such attorney to admit every such infant, feme covert, or lunatic to the said land, according to such estate as such infant, feme covert, or lunatic shall be legally entitled to therein, and upon every such admittance to impose and set such fine as might have been legally imposed and set if such infant had been of full age, or if such feme covert had been sole and unmarried, and if such lunatic had been of sane mind.

VI. That upon every such admittance of any infant, feme covert, or Fines in what lunatic as aforesaid, the fine imposed and set thereupon shall and may be manner de demanded by the bailiff or agent of the lord of such manor, by a note mandable. in writing, signed by the lord of such manor or by his steward, to be left with the guardian of such infant, or such infant if he have no guardian, or with such feme covert or her husband, or with the committee of the estate of such lunatic, or with the tenant or occupier of the land to which such infant, feme covert, or lunatic shall have been admitted as aforesaid; and if the fine so imposed and set be not paid or the lord may tendered to such lord or his steward within three months after such enter and redemand made, then it shall be lawful for the lord of such manor to ceive the profits enter into and upon the copyhold land to which any such infant, feme of the copyhold covert, or lunatic shall be so admitted, and to hold and enjoy the same, till he is satis-

fied, &c.

No. I.

count yearly;

and to deliver up possession on satisfaction of the fines.

Guardians or husbands, or committees paying fines, may reimburse themselves out of the rents of the copyhold.

No forfeiture to infant, &c. for not appearing, or refusing to pay fines.

and to receive the rents, issues, and profits thereof, but without liberty 1 W. 4, c. 65. to fell any timber standing thereon, for so long time only and until by such rents, issues, and profits such lord shall be fully paid and satisfied such fine, together with all reasonable costs and charges which such lord shall have been put unto in levying and raising the same, and in obtaining the possession of such copyhold land, although such infant, feme covert, or hunatic shall happen to die before such fine and fines, The lord to ac- and the costs and charges aforesaid, shall be raised and collected; of all which rents, issues, and profits so to be received by such lord of such manor, or his steward, bailiff, or servant, upon the occasion aforesaid, such lord shall yearly and every year, upon demand to be made by the person who shall be entitled to the surplus of the said rents and profits, over and above what will pay and satisfy such fine and costs and charges, or by the person who shall be then entitled to such copyhold land, give and render a just and true account, and shall pay the same surplus, if any, to such person as shall be entitled to the same.

> VII. That as soon as such fine, and the costs, charges, and expences aforesaid, shall be fully paid and satisfied, or if, after such seizure and entry of and upon such copyhold land for the purposes aforesaid, such fine, and the costs and charges aforesaid, shall be lawfully tendered and offered to be paid and satisfied to the lord of such manor, then and in any of the said cases it shall be lawful for such infant, feme covert, lunatic, or other person entitled thereto, or the guardian of such infant, the husband of such feme covert, or the committee of such lunatic, to enter upon and take possession of and hold the said copyhold land according to the estate or interest such infant, feme covert, or lunatic shall be lawfully entitled to therein, and the lord of such manor shall and is hereby required in any of the said cases to deliver possession thereof accordingly; and if such lord, after such fine, and the costs and charges aforesaid, shall be fully paid and satisfied, or after the same shall have been tendered or offered to be paid as aforesaid, shall refuse to deliver the possession of the said copyhold land as aforesaid, he or they shall be liable to and shall make satisfaction to the person or persons so kept out of possession, for all the damages that he or she shall thereby sustain, and all the costs and charges that he or she shall be put unto for the recovery thereof.

> VIII. That where any infant, feme covert, or lunatic shall be admitted to any copyhold land, if the guardian of such infant, or husband of such feme covert, or committee of such lunatic, shall pay to the lord of any manor the fine legally imposed and set upon such admittance, and the costs and charges which such lord of such manor shall have been put unto as aforesaid, then it shall be lawful for every guardian of such infant, or husband of such feme covert, or committee of such lunatic, his executors and administrators, to enter into and to hold and enjoy the said land to which such infant, feme covert, or lunatic shall have been so admitted, and receive and take the rents, issues, and profits thereof to his and their own use, until thereby such guardian of such infant, or husband of such feme covert, or committee of such lunatic, his executors and administrators, shall be fully satisfied and paid all and every such sum and sums of money as he shall respectively pay and disburse upon the account aforesaid, notwithstanding the death of such infants, femes covert, or lunatic shall happen before such sum or sums of money so expended shall or may be so raised and reimbursed.

IX. Provided always, That from and after the passing of this act no be incurred by infant, feme covert, or lunatic shall forfeit any copyhold land for his or her neglect or refusal to come to any court to be kept for any manor whereof such land is parcel, and to be admitted thereto, nor for the omission, denial, or refusal of any such infant, feme covert, or lunatic to pay any fine imposed or set upon his or her admittance to any such land.

X. Provided nevertheless, That if the fine imposed in any of the by cus- cases herein-before mentioned shall not be warranted by the custom of ic, may be controverted.

the manor, or shall be unlawful, then such infant, feme covert, or lunatic shall be at liberty to controvert the legality of such fine, in such 1 W. 4, c. 65. manner as he or she might have done if this act had not been made.

XI. That it shall be lawful for any person, not being under coverture, Persons may and for every feme covert, (such feme covert being solely and secretly appoint attorexamined by the lord of the manor whereof the land of which a common nies, &c. for recovery is proposed to be suffered shall be holden by copy of court roll, surrendering or in ancient demesne, or otherwise, or by his steward, or by the deputy lands of which of such steward,) to appoint any person to be his or her attorney, for the veries are inpurpose of surrendering the land of which a common recovery shall be tended to be proposed to be suffered, to the use of any person, to make him tenant to suffered, &c. the plaint, and also to appoint any other person to appear for the person so appointing as vouchee, and to enter into the usual warranty, and to do all other lawful and necessary acts for the suffering and perfecting of such common recovery respectively, and to direct the demandant in such common recovery respectively to surrender the tenements so recovered, when or after such recovery shall be suffered and perfected, to such uses as shall be declared in the instrument by which such attorney shall be respectively appointed; and that the surrender and common recovery which shall be had, acknowledged, and suffered as aforesaid shall have the like effect, but no other, as such surrender and common recovery would have had if the party who shall acknowledge such surrender and suffer such common recovery by attorney, and give such directions as aforesaid, had appeared in court in his or her person, and acknowledged the said surrender, and suffered the same recovery, and had joined in the surrender to be made by such defendant.

XII. That in all cases where any person, being under the age of Guardians, of twenty-one years, or a feme covert, is or shall become entitled to any minors, &c. in lease or leases made or granted or to be made or granted for the life or order to the surlives of one or more person or persons, or for any term of years, either render and reabsolute or determinable upon the death of one or more person or per-newal of leases, sons, or otherwise, it shall be lawful for such person under the age of may apply to twenty-one years, or for his or her guardian or other person on his the court of chancery, &c., behalf, and for such feme covert, or any person on her behalf, to apply and by order to the court of chancery in England, the courts of equity of the counties may surrender palatine of Chester, Lancaster, and Durham, or the courts of great such leases, session of the principality of Wales respectively, as to land within their and renew the respective jurisdiction, by petition or motion in a summary way; and same, &c. by the order and direction of the said courts respectively such infant or feme covert, or his guardian, or any person appointed in the place of such infant or feme covert by the said courts respectively, shall and may be enabled from time to time, by deed or deeds, to surrender such lease or leases, and accept and take, in the place and for the benefit of such person under the age of twenty-one years, or feme covert, one or more new lease or leases of the premises comprised in such lease surrendered by virtue of this act, for and during such number of lives, or for such term or terms of years determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned or contained in the lease or leases so surrendered at the making thereof respectively, or otherwise as the said courts shall respectively direct.

XIII. That in all cases where any person, being lunatic, shall become Committees of entitled to any lease or leases made or granted or to be made or granted lunatics may in for the life or lives of one or more person or persons, or for any term like manner of years, either absolute or determinable upon the death of one or more surrender person or persons, or otherwise, it shall be lawful for the committee of leases, and rethe estate of such person to apply to the lord chancellor of Great Bri-new the same, tain, being intrusted by virtue of the king's sign manual with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind, by petition or motion in a summary way; and by the order and direction of the said lord chancellor, intrusted as aforesaid, such committee shall and may be enabled from time to time, by deed or deeds, in the place of such lunatic, to sur-

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No. I.

render such lease or leases, and accept and take, in the name and for 1 W. 4, c. 65. the benefit of such lunatic, one or more new lease or leases of the premises comprised in such lease or leases surrendered by virtue of this act, for and during such number of lives, or for such term or terms of years, absolute or determinable as aforesaid, as was or were mentioned or contained in the lease or leases so surrendered at the making thereof respectively, or otherwise, as the said lord chancellor, intrusted as aforesaid, shall direct.

Charges attending renewal to be charged on the estates as the court shall direct.

XIV. That every sum of money and other consideration paid by any guardian, trustee, committee, or other person as a fine, premium, or income, or in the nature of a fine, premium, or income, for the renewal of any such lease, and all reasonable charges incident thereto, shall be paid out of the estate or effects of the infant or lunatic for whose benefit the lease shall be renewed, or shall be a charge upon the leasehold premises, together with interest for the same, as the said courts and lord chancellor, intrusted as aforesaid, respectively shall direct and determine; and as to leases to be made upon surrenders by femes covert, unless the fine or consideration of such lease and the reasonable charges shall be otherwise paid or secured, the same, together with interest, shall be a charge upon such leasehold premises, for the benefit of the person who shall advance the same.

New leases shall be to the same uses.

XV. That every lease to be renewed as aforesaid shall operate and be to the same uses, and be liable to the same trusts, charges, incumbrances, dispositions, devices, and conditions, as the lease to be from time to time surrendered as aforesaid was or would have been subject to in case such surrender had not been made.

Infants empowered to grant renewals of leases.

XVI. That where any person, being under the age of twenty-one years, or a feme covert, might, in pursuance of any covenant or agreement, if not under disability, be compelled to renew any lease made or to be made for the life or lives of one or more person or persons, or for any term or number of years absolute or determinable on the death of one or more person or persons, it shall be lawful to and for such infant, or his guardian in the name of such infant, or such feme covert, by the direction of the court of chancery, to be signified by an order to be made in a summary way upon the petition of such infant or his guardian, or of such feme covert, or of any person entitled to such renewal, from time to time to accept of a surrender of such lease, and to make and execute a new lease of the premises comprised in such lease, for and during such number of lives, or for such term or terms determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned in the lease so surrendered at the making thereof, or otherwise, as the court by such order shall direct.

Court of chancery may aube made of

XVII: That where any person, being an infant under the age of twenty-one years, is or shall be seised or possessed of or entitled to any thorize leases to land in fee or in tail, (1) or to any leasehold land for an absolute interest, and it shall appear to the court of chancery to be for the benefit of such lands belonging person that a lease or under-lease should be made of such estates for to infants when terms of years, for encouraging the erection of buildings thereon, or for it is to the bene-repairing buildings actually being thereon, or the working of mines, or fit of the estate. otherwise improving the same, or for farming or other purposes, it shall be lawful for such infant, or his guardian in the name of such infant, by the direction of the court of chancery, to be signified by an order to be made in a summary way upon the petition of such infant or his guardian, to make such lease of the land of such persons respectively, or any part thereof, according to his or her interest therein respectively, and to the nature of the tenure of such estates respectively, for such

⁽¹⁾ An estate of which H. E. died seised in fee descended to his five infant sisters. The father and mother being still living, and the estates of the sisters consequently liable to be divested by the birth of a son, or affected by the birth of a daughter: it was held that the infants were not seised or entitled within the above section. In re Evans, 2 Mylne & Keen, 318.

No. I.

term or terms of years, and subject to such rents and covenants as the said court of chancery shall direct; but in no such case shall any fine 1 W. 5, c. 65. or premium be taken, and in every such case the best rent that can be obtained, regard being had to the nature of the lease, shall be reserved upon such lease; and the leases, and covenants and provisions therein, shall be settled and approved of by a master of the said court, and a counterpart of every such lease shall be executed by the lessee or lessees therein to be named, and such counterparts shall be deposited for safe custody in the master's office until such infant shall attain twenty-one, but with liberty to proper parties to have the use thereof, if required, in the meantime, for the purpose of enforcing any of the covenants therein contained; provided that no lease be made of the capital mansion house and the park and grounds respectively held therewith for any period exceeding the minority of any such infant.

XVIII. That where any person who, in pursuance of any covenant or If persons agreement in writing, might, if within the jurisdiction and amenable to bound to renew the process of the court of chancery, be compelled to execute any lease are out of the by way of renewal, shall not be within the jurisdiction or not amenable jurisdiction of to the process of the said court, it shall be lawful to and for the said the court, the court of chancery, by an order to be made upon the petition of any person or any of the persons entitled to such renewal, (whether such person appoint be or be not under any disability,) to direct such person as the said ed by the court shall think prepar to appoint for that prepare to appoint the said ed by the court court shall think proper to appoint for that purpose, to accept a surren- of chancery, in der of the subsisting lease, and make and execute a new lease in the name the name of the of the person who ought to have renewed the same; and such deed, person who executed by the person to be appointed as aforesaid, shall be as valid as ought to have if the person in whose name the same shall be made had executed the renewed. same, and had been alive and not under any disability; but in every such case it shall be in the discretion of the said court of chancery, if under the circumstances it shall seem requisite, to direct a bill to be filed to establish the right of the party seeking the renewal, and not to make the order for such new lease unless by the decree to be made in such

cause, or until after such decree shall have been made. XIX. That where any person, being lunatic, is or shall be entitled or Committees of has a right, or in pursuance of any covenant or agreement might, if not lunatics, by the under disability, be compelled to renew any lease made or to be made direction of the for the life or lives of one or more person or persons, or for any term or lord chancelnumber of years absolute or determinable on the death of one or more lor, may accept person or persons, or otherwise, it shall be lawful to and for the com- of surrenders, mittee of the estate of such lunctic in the name of such lunctic by the and make new mittee of the estate of such lunatic, in the name of such lunatic, by the leases. direction of the lord chancellor, intrusted as aforesaid, to be signified by an order to be made in a summary way upon the petition of such committee, or of any person entitled to such renewal, from time to time to accept of a surrender of such lease, and to make and execute to any person a new lease of the premises comprised in such lease to be unrendered by virtue of this act, for and during such number of lives, or for such term or terms of years determinable upon such number of lives, or for such term or terms of years absolute, as were mentioned or contained in such lease so surrendered at the making thereof, or otherwise, as the lord chancellor, intrusted as aforesaid, by such order shall direct; and this provision shall extend as well to cases where the lunatic shall not be compellable to renew; but it shall be for his benefit to do so as to cases where a renewal might be effectually enforced against the

lunatic if of sound mind. XX. Provided always, That no renewed lease shall be executed by Fines to be paid virtue of this act, in pursuance of any covenant or agreement, unless before renewthe fine (if any), or such other sum or sums of money (if any), as ought als, and counto be paid on such renewal, and such things (if any) as ought to be terparts are experformed in pursuance of such covenant or agreement by the lessee or ecuted. tenant, be first paid and performed; and counterparts of every renewed lease to be executed by virtue of this act shall be duly executed by the lessee.

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No. I. to be paid.

XXI. That all fines, premiums, and sums of money, which shall be 1 W. 4, c. 65. had, received, or paid for or on account of the renewal of any lease, after a deduction of all necessary incidental charges and expences, shall Premiums how be paid, if such renewal shall be made by or in the name of an infant, to his guardian, and be applied and disposed of for the benefit of such infant, in such manner as the said court shall direct; if such renewal shall be made by a feme covert, to such person or in such manner as the court shall direct for her benefit; if such renewal shall be made in the name of any person out of jurisdiction or not amenable as aforesaid, to such person or in such manner, or into the court of chancery to such account, and to be applied and disposed of as the said court shall direct; and if such renewal should be made in the name of a lunatic, to the committee of the estate of such lunatic, and be applied and disposed of for the benefit of such lunatic, in such manner as the lord chancellor, intrusted as aforesaid, shall direct; but upon the death of lunatic, money such lunatic, all such sum and sums of money as shall arise by such arising by such fines or premiums, or so much thereof as shall remain unapplied for fines to be con- the benefit of such lunatic at his death, shall, as between the representatives of the real and personal estates of such lunatic, be considered as real estate, unless such lunatic shall be tenant for life only, and then the same shall be considered as personal estate.

sidered real estate.

On death of

The Irish Act, continued unaltered.

XXII. And whereas by the said act passed in the parliament of 11 Anne, c. 3, Ireland in the eleventh year of the reign of Queen Anne, after reciting that several persons had theretofore made and thereafter might make leases for one or more life or lives, of several lands, tenements, and hereditaments in the said then kingdom of Ireland, with covenants and agreements in such leases for renewing the same from time to time on the tender and payment of some fine, certain on the death of any life or lives in such lease or leases mentioned, by adding such one or more life or lives, on failure of the life or lives in being within the respective times in such agreements and covenants mentioned, as the several lessee or lessees in such lease or leases should nominate; and also reciting, that through one pretence or other, on the fall or failure of any life or lives in being, the lessee or lessees were greatly delayed before he or they could obtain any renewal according to the covenants and agreements in their leases, to their very great discouragement; for remedy whereof it was enacted, that if it should so happen that any person or persons who, in pursuance of such agreements for renewal in such leases contained or to be contained, ought to make such new lease or leases as had been or should be agreed to be made, should be under any disability so to do, by reason of infancy, coverture, or non compos mentis, that then and in every such case, (that is to say,) in case of disability by reason of infancy or being under age, by the direction of the high court of chancery or the court of exchequer, signified by an order made upon hearing all parties concerned on the petition of such lessee or lessees, it should and might be lawful to and for the guardian or guardians of such infant or person under age, upon such lessee or lessees tendering the fine or fines agreed on in such lease, and performing all such matters and things as by the said covenants and agreements ought to be performed on his or their part and behalf previous to such renewal, in such manner as should by such order be directed, to renew such lease or leases by adding such new life or lives as should be named by the said lessee or lessees according to the said covenants and agreements, and such guardian or guardians were thereby required to renew such lease or leases by putting in such new life or lives as should be so named unto them as aforesaid, while the infant or minor of such guardian or guardians should be under such disability of infancy or under age; and it was further enacted, That in all cases where the person or persons who by covenant or agreement were obliged to make such renewals were or should be disabled to renew by reason of being under coverture, beyond the seas, or non compos mentis, it should and might be lawful to and for the lord chancellor or commissioner or commissioners of the great seal of the said then kingdom of Ireland for the time being, upon petition or complaint made to him or them in the 1 W. 4, c. 65. high court of chancery, upon payment of the fine and such other sum or sums of money as ought to be paid upon such renewal for the use of the person or persons entitled to the same, and upon the lessee or lessees doing and performing all and every such matters and things as by the said covenants or agreements in the said lease or leases ought to be done or performed by him or them previous to such renewal, to order or appoint such renewal or renewals to be made by one of the masters of the said court of chancery, to be nominated and appointed by the said lord chancellor or commissioner or commissioners of the great seal for the time being; and such master so nominated and appointed, and also such guardian and guardians as aforesaid, should make and execute such deed of renewal in the name of the person or persons who ought to have renewed the same; which deed or deeds of renewal so made and executed by the said guardian or guardians, master or masters, counterparts thereof being duly perfected by the lessee or lessees for the use and benefit of the person or persons having the reversion and inheritance of such lands, tenements, or hereditaments comprised in such deed or deeds, should be as good and effectual in law and equity, to all intents and purposes, as if the person or persons under age had been of full age and had executed the same, or as if the other person or persons under such disability had not been so disabled and had executed the same; provided such person or persons under age or under such disability as aforesaid were at the time of the renewal of such lease compellable in law or equity to make such renewal: And whereas it is expedient that the provisions of the said recited act, which have been so long in force in Ireland, should remain unaltered;

in Ireland. XXIII. That where any person, being lunatic, is or shall be seised The power of or possessed of any land, either for life or for some other estate, with leasing lands, power of granting leases and taking fines, reserving small rents on such &c. of lunatics leases, for one, two, or three lives in possession or reversion, or for some having a limited number of years determinable upon lives, or for any term of years abso- estate may be lutely, such power of leasing which is or shall be vested in such person, committee, being lunatic and having a limited estate only, shall and may be executed by the committee of the estate of such person, under the direction and order of the lord chancellor, intrusted as aforesaid.

be it therefore further enacted, That the clauses and provisions contained in the said act shall be and continue in force in the same manner to all intents and purposes as if the said clauses and provisions, and every part thereof, had been repeated and re-enacted in this act; and none of the other provisions in this act contained for authorizing any surrenders to be accepted, or any new lease to be made or executed, for or on the behalf of any person who, in pursuance of any covenant or agreement for renewal in any lease contained or to be contained, ought to make such new lease or leases, shall extend or be construed to land

. XXIV. That where any person, being lunatic, is or shall be seised or Where lunatics possessed of or entitled to any land in fee or in tail, or to any lease- are seised of hold land for an absolute interest, and it shall appear to the lord chan-estates in fee or cellor, intrusted as aforesaid, to be for the benefit of such person that in tail, or an a lease or under-lease should be made of such estates for terms of years, absolute inter-for encouraging the erection of buildings therein, or for repairing estates, the buildings actually being thereon, or otherwise improving the same, chancellor may or for farming or other purposes, it shall be lawful for the lord chan-direct leases to cellor, intrusted as aforesaid, to order and direct the committee of the be made. estate of such lunatic to make such lease of the land of such persons respectively, or any part thereof, according to his or her interest therein respectively, and to the nature of the tenure of such estates respectively, for such term or terms of years, and subject to such rents and covenants, as the lord chancellor, intrusted as aforesaid, shall direct.

XXV. And whereas by an act passed in the first year of the reign 1 G. 1, c. 10,

So much of

No. I. s. 9, as enacts that agreements of guardians shall bind infants repealed.

Such agreements may be made by guardians, with the approbation of the court, and by committees with the approbation of the lord chancellor.

Committee of lunatics, by lord chancellor, may convey land in performance of contracts.

The lord chancellor may order the estates of lunatics to be sold or charged by mortgage for raising money for the payment of debts, &c.

of King George the First, intituled An Act for making more effectual her 1 W. 4, c. 65. late Majesty's gracious Intentions for augmenting the Maintenance of the Poor Clergy, it was enacted, that the agreements of guardians for and on behalf of infants or idiots under their guardianship should be as good and effectual to all intents and purposes as if the said infants or idiots had been of full age and of sound mind, and had themselves entered into such agreements: And whereas it is desirable that the said powers should be exercised under proper control, and that the same should be extended to all persons against whom a commission of lunacy shall have issued; be it further enacted, That so much of the said act of the first year of the reign of king George the first, as is herein-before recited, shall be and the same is hereby repealed,

XXVI. That the guardian of any infant, with the approbation of the court of chancery, to be signified by an order to be made on the petition of such guardian in a summary way, may enter into any agreement for or on behalf of such infant which such guardian might have entered into by virtue of the said last-recited act, if the same had not been repealed; and the committee of the estate of any lunatic, with the approbation of the lord chancellor, intrusted as aforesaid, to be signified by an order to be made in the petition of such committee in a summary way, may enter into any agreement for or on the behalf of such lunatic which the guardian of an infant might have entered into for or on the behalf of such infant by virtue of the said last-recited act, if the

same had not been repealed.

XXVII. That when any person who shall have contracted to sell, mortgage, let, divide, exchange, or otherwise dispose of any land, shall direction of the afterwards become lunatic, and a specific performance of such contract, either wholly or so far as the same shall remain to be performed, shall have been decreed by the court of chancery, either before or after such lunacy, it shall be lawful for the committee of the estate of such lunatic, in the place of such lunatic, by the direction of the lord chancellor, intrusted as aforesaid, to be signified by an order to be made on the petition of the plaintiff or any of the plaintiffs in such suit, to convey such land, in pursuance of such decree, to such person and in such manner as the said lord chancellor, intrusted as aforesaid, shall direct; and the purchase money, or so much thereof as remains unpaid, shall

be paid to the committee of such lunatic. XXVIII. That it shall be lawful for the lord chancellor, intrusted as aforesaid, to order any land, of or to which any person being lunatic shall be seised or possessed or entitled, to be sold, or charged and incumbered by way of mortgage, or otherwise disposed of, as shall be deemed most expedient for the purpose of raising money for payment of the debts or engagements of such lunatic, the discharge of any incumbrances on his estates, the costs of applying for and obtaining the commission of lunacy and in opposition thereto, and all proceedings underthe said commission, and the costs of such sales, mortgages, charges, and incumbrances, and other dispositions, or for any of such purposes as aforesaid, as such lord chancellor, intrusted as aforesaid, shall respectively direct; and that the monies arising from any such sale, mortgage, charge, incumbrance, or other disposition, may be paid, laid out, and applied in payment of the debts and engagements of such lunatic, the discharge of any incumbrances on his estates, the costs of applying for and obtaining the commission of lunacy and in opposition thereto, and all proceedings under the same commission, or incurred under the order of such lord chancellor, intrusted as aforesaid, and the costs of such sales, mortgages, charges, and incumbrances, and other dispositions, in such manner as the said lord chancellor, intrusted as aforesaid, shall direct; and to direct the committee of the estate of such person to execute, in the place of such person respectively, conveyances of the estates so to be sold, mortgaged, incumbered, or disposed of, and to do all such acts as shall be necessary to effectuate the same, in such manner as such lord chancellor, intrusted as aforesaid, shall direct.

XXIX. Provided always, That on any sale, mortgage, charge, incumbrance, or other disposition which shall be made in pursuance of this 1 W. 4, c. 65. act, the person whose estate shall be sold, mortgaged, charged, incumbered, or otherwise disposed of, and his or her heirs, next of kin, Surplus of devisees, legatees, executors, administrators, and assigns, shall have monies to be of such and the like interest in the surplus which shall remain, after the same nature answering the purposes aforesaid, of the money raised by such sale, as the estate. mortgage, charge, incumbrance, or other disposition, as he, she, or they would have had in the estate by the sale, mortgage, charge, incumbrance, or other disposition of which such monies shall be raised, if no such sale, mortgage, charge, incumbrance, or other disposition had been made; and such monies shall be of the same nature and character as the estate so sold, mortgaged, charged, incumbered, or disposed of; and it shall be lawful for the said lord chancellor, intrusted as aforesaid, to make such orders, and to direct such acts and deeds to be done and executed, as shall be necessary for carrying the aforesaid objects into effect, and for the due application of such surplus monies.

XXX. Provided nevertheless, That nothing in this act contained Act shall not shall extend to subject any part of the estates of any person, being subject estates lunatic, to the debts or demands of his creditors, otherwise than as the of lunatics to same are now subject and liable by due course of law, but only to debts otherwise authorize the lord chancellor, intrusted as aforesaid, to make order in than they are such cases as are herein-before mentioued, when the same shall be now subject. deemed just and reasonable, or for the benefit or advantage of such

lunatic.

XXXI. That every surrender and lease, agreement, conveyance, Surrender and mortgage, or other disposition respectively, granted and accepted, leases deemed executed and made, by virtue of this act, shall be and be deemed as valid. valid and legal to all intents and purposes as if the person by whom, or in whose place, or on whose behalf the same respectively shall be granted or accepted, executed and made, had been of full age, unmarried, or of sane mind, and had granted, accepted, made, and executed the same; and every such surrender and lease respectively made and accepted by or on the behalf of a feme covert shall be valid, without any

fine being levied by her.

XXXII. That it shall be lawful for the court of chancery, by an order Court of chanto be made on the petition of the guardian of any infant in whose name cery or excheany stock shall be standing, or any sum of money, by virtue of any act quer may order for paying off any stock, and who shall be beneficially entitled thereto, dividends of or if there shall be no guardian, by an order to be made in any cause stock belongdepending in the said court, to direct all or any part of the dividends ing to infants to due or to become due in respect of such stocks, or any such sum of be applied for money, to be paid to any guardian of such infant, or to any other person, according to the discretion of such court, for the maintenance and education or otherwise for the benefit of such infant, such guardian or other person to whom such payment shall be directed to be made being named in the order directing such payment; and the receipt of such guardian or other person for such dividends or sum of money, or any part thereof, shall be as effectual as if such infant had attained the age of twenty-one years, and had signed and given the same.

XXXIII. That where any stock shall be standing in the name of or Stock belongshall be vested in any person being lunatic, who shall be beneficially ing to lunatics entitled thereto, or shall be standing in the name of or vested in any may be ordered person being committee of the estate of a person found lunatic, in trust by the lord for or as part of his property, and such committee shall have died chancellor to intestate or shall himself become lunatic, or shall be out of the jurisdic- be transferred. tion of or not amenable to the process of the court of chancery, or it shall be uncertain whether such committee be living or dead, or such committee shall neglect or refuse to transfer such stock, and to receive and pay over the dividends thereof to a new committee, or as he shall direct, for the space of fourteen days next after a request in writing for that purpose shall have been made by any new committee, then and in

No. I.

every or any such case it shall be lawful for the lord chancellor, 1 W. 4, c. 65. intrusted as aforesaid, upon the petition of the committee of the estates of the person being lunatic, or of the person reported by the master to whom the matter is referred as a proper person to be such committee, although such report shall not have been confirmed, to direct such person as such lord chancellor shall think proper to appoint for that purpose to transfer such stock to or into the name of any new committee or in the name of the accountant general of the said court, or otherwise, and also to receive and pay over the dividends thereof, or such sum or sums of money, in such manner as such lord chancellor shall think proper; and such transfers and payments shall be valid and effectual to all intents and purposes whatsoever.

Where stock ing in the names of lunatics residing out of England, the transfer.

XXXIV. That where any stock shall be standing in the name of or shall be stand-vested in any person residing out of England, it shall be lawful for the lord chancellor, intrusted as aforesaid, upon petition, and proof being made to his or their satisfaction that such person has been declared lunatic, and that his personal estate has been vested in a curator or lord chancellor other person appointed for the management thereof, according to the may direct the laws of the place where such persons shall reside, to direct any person whom such lord chancellor shall think proper to appoint for that purpose to transfer such stock, or any part or parts thereof, into the name of any such curator or other such person as aforesaid, or otherwise, and also to receive and pay over the dividends thereof, as such lord chancellor shall think fit; and that such transfers and payments shall be valid and effectual to all intents and purposes whatsoever.

Costs may be directed to be paid.

XXXV. That the court of chancery or lord chancellor, intrusted as aforesaid, may order the costs and expences of and relating to the petitions, orders, directions, conveyances, and transfers to be made in pursuance of this act, or any of them, to be paid and raised out of or from the lands or stock or the rents or dividends in respect of which the same respectively shall be made, in such manner as the said court or lord chancellor shall think proper.

Powers given to the court of chancery in England; which may be exercised by the court of exchequer.

XXXVI. That the powers and authorities given by this act to the court of chancery in England shall extend to all land and stock within any of the dominions, plantations, and colonies belonging to his Majesty, except Scotland.

Powers given to courts may England and Ireland.

XXXVII. That the powers and authorities given by this act to the court of chancery shall and may be exercised in like manner by, and are hereby given to, the court of exchequer.

Powers given to the lord chancellor of

XXXVIII. That the powers and authorities given by this act to the courts of chancery and exchequer in England shall and may be be exercised in exercised in like manner, and are hereby given to the courts of chancery and exchequer in Ireland, with respect to land and stock in Ireland.

which may be exercised by lord chancellor

XXXIX. That the powers and authorities given by this act to the lord chancellor of Great Britain, intrusted as aforesaid, shall extend to all land and stock wheresoever, within any of the dominions, planta-Great Britain; tions, and colonies belonging to his Majesty (except Scotland and Ireland).

of Ireland.

XL. That the powers and authorities given by this act to the lord chancellor of Great Britain, intrusted as aforesaid, shall and may be exercised in like manner by, and are hereby given to, the lord chancellor of Ireland, intrusted as aforesaid, with respect to all land and stock in Ireland, but not further or otherwise.

Inquisitions on commissions under the great seal of Great Britain to be entered of reand acted on there, and vice versa.

XLI. And whereas it is desirable that in some cases inquisitions taken in England on a commission in the nature of a writ de lunatico inquirendo, and writs of supersedeas of any such commission, should be acted upon in Ireland in the same manner as the same may be acted transmitted and upon in England, and for that purpose shall be placed on record in Ireland; and that inquisitions on a like commission executed in Ireland. cord in Ireland, and writs of supersedeas of any such commission, shall be acted on in England, and for that purpose shall be placed on record there: Be it

No. I.

therefore enacted, That in all cases where any person has been or shall be found lunatic or of unsound mind, and incapable of managing his or 1 W. 4, c. 65 her affairs, by any inquisition on a commission in the nature of a writ de lunatico inquirendo under the great seal of Great Britain, it shall be lawful for the proper officer, by order of the lord chancellor of Great Britain, intrusted as aforesaid, to transmit a transcript of the record of such inquisition to the chancery of Ireland, and such transcript shall thereupon be entered of record and be as of record there; and in case a writ of supersedeas of any such commission shall issue, the issue of such writ shall be certified and transmitted and recorded in like manner, and the copies of the record of any such inquisition or supersedeas so transmitted and entered as of record in the chancery of Ireland shall, if the lord chancellor of Ireland, intrusted as aforesaid, shall see fit, and so long only as he or they shall so see fit, be acted upon by him or them respectively, and be of the same force and validity and have the same effect to all intents and purposes in Ireland, as if such inquisition had been taken on a commission under the great seal of Ireland, and such writ of supersedeas had been issued under the great seal of Ireland; and that in all cases where any person has been or shall be found lunatic or of unsound mind, and incapable of managing his or her affairs, by any inquisition on a commission in the nature of a writ de lunatico inquirendo under the great seal of Ireland, it shall be lawful for the proper officer, by order of the lord chancellor of Ireland, intrusted as aforesaid, to transmit a transcript thereof in like manner to the chancery of England, and such transcript shall thereupon be entered as of record there; and in case a writ of supersedeas of any such commission shall issue, a transcript thereof shall be certified and transmitted to the chancery of England, and recorded in like manner; and such entry of record of any such inquisition or supersedeas shall, if the lord chancellor of Great Britain, intrusted as aforesaid, shall see fit, and so long as he or they shall so see fit, be acted upon by him or them respectively, and be of the same force and validity, and have the same force and effect, as if such inquisition had been taken on a commission under the great seal of Great Britain, and such writ of supersedeas had been issued under the great seal of Great

XLII. That the powers and authorities given by this act to the lord Powers given chancellor of Great Britain, intrusted as aforesaid, shall and may be to the lord exercised in like manner by, and are hereby given to, the lord keeper chancellor to or commissioners of the great seal of Great Britain for the time being, extend to the intrusted as aforesaid; and the powers and authorities given by this commissioners. act to the lord chancellor of Ireland, intrusted as aforesaid, shall and may be exercised in like manner by, and are hereby given to, the lord keeper or commissioners of the great seal of Ireland for the time being, intrusted as aforesaid.

Britain.

XLIII. Provided always, That in all cases in which orders shall be Who shall be made in pursuance of this act for the transfer of stock, the person to be named in the named in such order for making such transfer shall be some officer of orders of the such company or society in whose books such transfer shall be made; court for and where such transfer shall be directed to be made in books kept by making transthe governor and company of the Bank of England, such officer shall fers. be the secretary or deputy secretary, or accountant general or deputy accountant general, for the time being of the said governor and company.

XLIV. That this act shall be and is hereby declared to be a full and Act to be an complete indemnity and discharge to the governor and company of the indemnity to Bank of England, and all other companies and societies, and their the bank and officers and servants, for all acts and things done or permitted to be other compadone pursuant thereto; and that such acts and things shall not be nies. questioned or impeached in any court of law or equity to their prejudice or detriment.

PART II.

CLASS VII.

FRAUDULENT CONVEYANCES.

[As to when the right to bring a suit in equity for the recovery of land or rent in case of a concealed fraud shall accrue. See the 3 & 4 W. 4, c. 27, s. 26, Part IV. Class 8, Limitations.]

PART II.

CLASS VIII.

LEASES.

[For the clauses of the same act applicable to leases; see as above. As to leases of crown lands, see Part II. Class 12, Land Revenue of the Crown; see also Part IV. Class 19, Distress.]

PART II.

CLASS IX.

USES.

[There has been no recent statute upon this subject.]

PART II.

CLASS X.

FINES AND RECOVERIES.

[No. I.] 3 & 4 W. IV. c. 74.—An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance. [28th August 1833.]

BE it enacted, &c., That in the construction of this act the word Meaning of "lands" shall extend to manors, advowsons, rectories, messuages, certain words lands, tenements, tithes, rents, and hereditaments of any tenure and expressions (except copy of court roll), and whether corporeal or incoporeal, and "Lands." any undivided share thereof, but when accompanied by some expression including or denoting the tenure by copy of court roll, shall extend to manors, messuages, lands, tenements, and hereditaments of that tenure, and any undivided share thereof; and the word "estate" shall extend "Estate." to an estate in equity as well as at law, and shall also extend to any interest, charge, lien, or incumbrance in, upon, or affecting lands, either at law or in equity, and shall also extend to any interest, charge, lien, or incumbrance in, upon, or affecting money subject to be invested in the purchase of lands: and the expression "base fee" shall mean ex- "Base fee." clusively that estate in fee simple into which an estate tail is converted where the issue in tail are barred, but persons claiming estates by way of remainder or otherwise are not barred; and the expression "estate " Estate tail." tail," in addition to its usual meaning, shall mean a base fee into which an estate tail shall have been converted; and the expression "actual "Actual tenant tenant in tail" shall mean exclusively the tenant of an estate tail which in tail." shall not have been barred, and such tenant shall be deemed an actual tenant in tail, although the estate tail may have been divested or turned to a right; and the expression "tenant in tail" shall mean not only an "Tenant in actual tenant in tail, but also a person who, where an estate tail shall tail." have been barred and converted into a base fee, would have been tenant of such estate tail if the same had not been barred; and the expression "tenant in tail entitled to a base fee" shall mean a person entitled to a "Tenant in tail base fee, or to the ultimate beneficial interest in a base fee, and who, entitled to a if the base fee had not been created, would have been actual tenant base fee." in tail; and the expression "money subject to be invested in the "Money." purchase of lands" shall include money, whether raised or to be raised, and whether the amount thereof be or be not ascertained, and shall extend to stocks and funds, and real and other securities, the produce of which is directed to be invested in the purchase of lands, and and the lands to be purchased with such money or produce shall extend to lands held by copy of court roll, and also to lands of any tenure in Ireland or elsewhere out of England, where such lands or any of them are within the scope or meaning of the trust or power directing or authorizing the purchase; and the word "person" shall extend to "Person." a body politic, corporate, or collegiate, as well as an individual: and Number and every word importing the singular number only shall extend and be gender. applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied

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Settlement.

No fine or recovery to be levied or suffered after the 31st of Dec. 1833.

Persons liable 1833 to levy fines or suffer recoveries under covenants to effect the purposes intended by means of this purpose of a cannot be so effected the persons liable to levy fines or suffer recoveries shall execute a deed which shall have the same fine or recovery.

to a female as well as a male; and every assurance already made or hereafter to be made, whether by deed, will, private act of parliament, or otherwise, by which lands are or shall be entailed, or agreed or directed to be entailed, shall be deemed a settlement; and every appointment made in exercise of any power contained in any settlement, or of any other power arising out of the power contained in any settlement, shall be considered as part of such settlement, and the estate created by such appointment shall be considered as having been created by such settlement; and where any such settlement is or shall be made by will, the time of the death of the testator shall be considered the time when such settlement was made: Provided always, that those words and expressions occurring in this clause, to which more than one meaning is to be attached, shall not have the different meanings given to them by this clause in those cases in which there is any thing in the subject or context repugnant to such construction.

II. That after the thirty-first day of December one thousand eight hundred and thirty-three no fine shall be levied or common recovery suffered of lands of any tenure, except where parties intending to levy a fine or suffer a common recovery shall, on or before the thirty-first day of December one thousand eight hundred and thirty-three, have sued out a writ of dedimus, or any other writ, in the regular proceedings of such fine or recovery; and any fine or common recovery which shall be levied or suffered contrary to this provision shall be absolutely void.

III. That in case any person shall, after the thirty-first day of Decemafter 31st Dec. ber one thousand eight hundred and thirty-three, be liable to levy a fine or suffer a common recovery of lands of any tenure, or to procure some other person to levy a fine or suffer a common recovery of lands of any tenure, under a covenant or agreement already entered into or hereafter to be entered into, before the first day of January one thousand eight hundred and thirty-four, then and in such case, if all the purposes intended to be effected by such fine or recovery can be effected by a disposition under this act, the person liable to levy such fine or suffer act; but in any such recovery, or to procure some other person to levy such fine or case where the suffer such recovery, shall after the thirty-first day of December one thousand eight hundred and thirty-three, be subject and liable under fine or recovery such covenant or agreement to make or to procure to be made such a disposition under this act as will effect all the purposes intended to be effected by such fine or recovery; but if some only of the purposes intended to be effected by such fine or recovery can be effected by a disposition under this act, then the person so liable to levy such fine or suffer such recovery, or to procure some other person to levy such fine or suffer such recovery as aforesaid, shall, after the thirty-first day of December one thousand eight hundred and thirty-three, be subject and liable under such covenant or agreement to make or procure to be operation as the made such a disposition under this act as will effect such of the purposes intended to be effected by such fine or recovery as can be effected by a disposition under this act; and in those cases where the purposes intended to be effected by such fine or recovery or any of them cannot be effected by any disposition under this act, then the person so liable to levy such fine or suffer such recovery, or to procure some other person to levy such fine or suffer such recovery as aforesaid, shall, after the thirtyfirst day of December one thousand eight hundred and thirty-three, be liable under such covenant or agreement to execute or to procure to be executed some deed whereby the person intended to levy such fine or suffer such recovery shall declare his desire that such deed shall have the same operation and effect as such fine or recovery would have had if the same had been actually levied or suffered; and the deed by which such declaration shall be made shall, if none of the purposes intended to be effected by such fine or recovery can be effected by a disposition under this act, have the same operation and effect in every respect as such fine or recovery would have had if the same had been actually levied or suffered: but if some only of the purposes intended

to be effected by such fine or recovery can be effected by a disposition under this act, then the deed by which such declaration shall be made 3 & 4 W. 4, shall, so far as the purposes intended to be effected by such fine or recovery cannot be effected by a disposition under this act, have the same operation and effect in every respect as such fine or recovery would have had if the same had been actually levied or suffered.

No. I.

IV. That no fine already levied in a superior court of lands of the Fines and retenure of ancient demesne which hath not been reversed, and no fine coveries of hereafter to be levied of lands of that tenure, shall, upon a writ of lands in ancient deceit already brought by the lord of the manor of which the lands were demesne, when parcel, the proceedings in which are now pending, or upon a writ of levied or sufdeceit which at any time after the passing of this act may be brought fered in a suby the lord of the said manor, be reversed as to any person except the may be reversibled of the said manor, and the court shall order such fine to be lord of the said manor; and the court shall order such fine to be ed as to the vacated only as to the lord of the said manor; and every such fine lord by writs of which may be reversed as to the lord of the said manor upon such writ deceit, the proof deceit as aforesaid shall still remain as good and valid against and as ceedings in binding upon the conusors thereof, and all persons claiming under which are now them, as such fine would have been if the same had not been reversed pending, or by by such writ of deceit as aforesaid; and no common recovery already writs of deceit suffered in a superior court of lands of the tenure of ancient demesne hereafter to be which hath not been reversed, and no common recovery hereafter to be brought, but suffered of lands of that tenure, shall, upon a writ of deceit already shall be as valid brought by the lord of the manor of which the lands were parcel, the ties thereto, and proceedings in which are now pending, or upon a writ of deceit which persons claimat any time after the passing of this act may be brought by the lord of ing under them, the said manor, be reversed as to any person except the lord of the said as if not remanor; and the court shall order such recovery to be vacated only as to versed as to the the lord of the said manor; and every such recovery which may be re- lord. versed as to the lord of the said manor upon such writ of deceit as aforesaid shall still remain as good and valid against and as binding upon the vouchees therein, and all persons claiming under them, as such recovery would have been if the same had not been reversed by such writ of deceit as aforesaid.

V. That if at any time before or after the passing of this act a fine or Fines and recommon recovery shall have been levied or suffered, or shall be levied coveries of or suffered in a superior court, of lands of the tenure of ancient lands in ancient demesne, and subsequently to the levying or suffering thereof a fine or demesne levied common recovery shall have been or shall be levied or suffered of the or suffered in same lands in the court of the lord of the manor of which the lands had the manor been previously parcel, and the fine or common recovery levied or suf-court, after fered in such superior court shall not have been reversed previously to other fines and the levying of the fine or the suffering of the common recovery in the superior court, lord's court, then and in every such case the fine or common recovery shall be as valid levied or suffered in the lord's court shall, notwithstanding the altera- as if the tenure tion or change of the tenure by the fine or common recovery previously had not been levied or suffered in the superior court, be as good, valid, and binding changed. as the same would have been if the tenure had not been altered or changed; and that in every other case where any fine or common reco- Fines and revery shall at any time before the passing of this act have been levied or coveries shall suffered in a court whose jurisdiction does not extend to the lands of not be invalid which such fine or recovery shall have been levied or suffered, such in other cases, fine or recovery shall not be invalid in consequence of its having been though levied levied or suffered in such court, and such court shall be deemed a or suffered in court of sufficient jurisdiction for all the purposes of such fine or courts whose recovery; and in every other case where persons shall have assumed to jurisdictions hold courts in which fines or common recoveries have been levied or to the lands suffered, and such courts shall be unlawful or held without due autho-therein comrity, the fines or common recoveries which at any time before the prised. passing of this act may have been levied or suffered in such unlawful or unauthorized courts shall not be invalid in consequence of their having been levied or suffered therein, and such courts shall be deemed

No. I. 3 & 4 W. 4, c. 74.

not passed; and while the said records and proceedings respectively shall be kept by such persons respectively, searches may be made and extracts and copies obtained as heretofore, and on paying the accustomed fees; and when any of the records and proceedings shall, by the order of the court or justices having the control over the same, be kept by any other person, then, so far as relates to the records and proceedings in the custody of such other person, searches may be made and extracts or copies obtained at such times and on paying such fees as shall from time to time be ordered by the court or justices having the control over the same; and the extracts or copies so obtained shall be as available in evidence as they would have been if obtained from the person whose duty it would have been to have made and delivered out the same if this act had not been passed.

Estates tail, and estates expectant thereon, no longer barrable

by warranty. Power, after the 31st Dec. 1833, to dispose of lands entailed in fee simple or for a less e-tate, saving the rights of

XIV. That all warranties of lands which after the the thirty-first day of December one thousand eight hundred and thirty-three shall be made or entered into by any tenant in tail thereof shall be absolutely void against the issue in tail, and all persons whose estates are to take effect after the determination or in defeasance of the estate tail.

XV. That after the thirty-first day of December one thousand eight hundred and thirty-three every actual tenant in tail, whether in possession, remainder, contingency, or otherwise, shall have full power to dispose of for an estate in fee simple absolute, or for any less estate, the lands entailed, as against all persons claiming the lands entailed by force of any estate tail which shall be vested in or might be claimed by. or which but for some previous act would have been vested in or might have been claimed by, the person making the disposition, at the time of certain persons, his making the same, and also as against all persons, including the king's most excellent Majesty, his heirs and successors, whose estates are to take effect after the determination or in defeasance of any such estate tail; saving always the rights of all persons in respect of estates prior to the estate tail in respect of which such disposition shall be made, and the rights of all other persons, except those against whom such dis-

position is by this act authorized to be made.

XVI. Provided always, That where, under any settlement made before the passing of this act, any woman shall be tenant in tail of lands position not to be exercised by within the provisions of an act passed in the eleventh year of the women tenants reign of his Majesty king Henry the seventh, intituled Certain Alienations made by the Wife of the Lands of her deceased Husband shall be void, the power of disposition herein-before contained as to such lands shall not be exercised by her except with such assent as, if this act had not been passed, would, under the provisions of the said act of king Henry the seventh, have rendered valid a fine or common recovery levied or suffered by her of such lands.

in tail ex provisione viri, under 11 H.7, c. 20, except with assent.

Power of dis-

XVII. Provided always, That, except as to lands comprised in any settlement made before the passing of this act, the said act of the this act, the act eleventh year of the reign of his Majesty king Henry the seventh shall 11 H. 7, c. 20, be and the same is hereby repealed.

Except as to lands in settlements before

XVIII. Provided always, That the power of disposition herein-before contained shall not extend to tenants of estates tail who, by an act passed in the thirty-fourth and thirty-fifth years of the reign of his Majesty king Henry the Eighth, intituled An Act to embar feigned Recocertain tenants very of Lands wherein the King is in Reversion, or by any other act, are restrained from barring their estates tail, or to tenants in tail after possibility of issue extinct.

The power of disposition not to extend to in tail.

XIX. That after the thirty-first day of December one thousand eight the 31st of Dec. hundred and thirty-three, in every case in which an estate tail in any lands shall have been barred and converted into a base fee, either before large base fees; or on or after that day, the person who, if such estate tail had not been barred, would have been actual tenant in tail of the same lands, shall rights of certain have full power to dispose of such lands as against all persons, including the king's most excellent Majesty, his heirs and successors, whose estates are to take effect after the determination or in defeasance of the

Power, after 1833, to ensaving the persons.

base fee into which the estate tail shall have been converted, so as to enlarge the base fee into a fee simple absolute; saving always the 3 & 4 W. 4, rights of all persons in respect of estates prior to the estate tail which shall have been converted into a base fee, and the rights of all other persons, except those against whom such disposition is by this act authorized to be made.

XX. Provided always, That nothing in this act contained shall enable Issue inheritaany person to dispose of any lands entailed in respect of any expectant ble not to bar interest which he may have as issue inheritable to any estate tail expectancies. therein.

XXI. Provided always, That if a tenant in tail of lands shall make a Extent of the disposition of the same, under this act, by way of mortgage, or for any estate created disposition of the same, under this act, by way or mortgage, or not any by a tenant in other limited purpose, then and in such case such disposition shall, to tail by way of the extent of the estate thereby created, be an absolute bar in equity as mortgage, or well as at law to all persons as against whom such disposition is by this for any other act authorized to be made, notwithstanding any intention to the con-limited purtrary may be expressed or implied in the deed by which the disposition pose. may be effected: Provided always, That if the estate created by such disposition shall be only an estate pour autre vie, or for years absolute or determinable, or if, by a disposition under this act by a tenant in tail of lands, an interest, charge, lien, or incumbrance shall be created without a term of years absolute or determinable, or any greater estate, for securing or raising the same, then such disposition shall in equity be a bar only so far as may be necessary to give full effect to the mortgage, or to such other limited purpose, or to such interest, lien, charge, or incumbrance, notwithstanding any intention to the contrary may be expressed or implied in the deed by which the disposition may be effected.

XXII. That if at the time when there shall be a tenant in tail of The owner of lands under a settlement, there shall be subsisting in the same lands or the first existany of them, under the same settlement, any estate for years deter-ing estate unminable on the dropping of a life or lives, or any greater estate (not der a settlebeing an estate for years), prior to the estate tail, then the person who ment, prior to shall be the owner of the prior estate, or the first of such prior estates if an estate tail more than one, then subsisting under the same settlement, or who settlement, to would have been so if no absolute disposition thereof had been made, be the protec-(the first of such prior estates, if more than one, being for all the pur-tor of the setposes of this act deemed the prior estate,) shall be the protector of the tlement. settlement so far as regards the lands in which such prior estate shall be subsisting, and shall for all the purposes of this act be deemed the owner of such prior estate, although the same may have been charged or incumbered either by the owner thereof or by the settlor, or otherwise howsoever, and although the whole of the rents and profits be exhausted or required for the payment of the charges and incumbrances on such prior estate, and although such prior estate may have been absolutely disposed of by the owner thereof, or by or in consequence of the bankruptcy or insolvency of such owner, or by any other act or default of such owner; and that an estate by the curtesy, in respect of the estate tail, or of any prior estate created by the same settlement, shall be deemed a prior estate under the same settlement within the meaning of this clause; and that an estate by way of resulting use or trust to or for the settlor shall be deemed an estate under the same settlement within the meaning of this clause.

XXIII. Provided always, That where two or more persons shall be Each of two or owners, under a settlement within the meaning of this act, of a prior more owners of estate, the sole owner of which estate, if there had been only one, would a prior estate to in respect thereof have been the protector of such settlement, each of be the sole prosuch persons, in respect of such undivided share as he could dispose of, tector as to his shall for all the purposes of this act be deemed the owner of a prior share. estate, and shall, in exclusion of the other or others of them, be the sole protector of such settlement to the extent of such undivided share.

No. I. c. 74.

Where a married woman alone shall be the protector,

As to estates confirmed or tlement.

As to leases at settlement.

No tenant in dower, heir, executor, &c. except in the case of a bare trustee.

Who shall be the protector where the owner of the prior estate shall, by the two last clauses, be excluded.

Where, in the estate before the 31st Dec. 1833, the person to make the tenant to the writ of entry in a recovery shall be the protec-

Where, in the position of a the person to make the tenant to the writ of entry in a recovery shall be the protector.

XXIV. Provided always, That where a married woman would, if single, 3 & 4 W. 4, be the protector of a settlement in respect of a prior estate, which is not thereby settled, or agreed or directed to be settled, to her separate use, she and her husband together shall in respect of such estate be the protector of such settlement, and shall be deemed one owner; but if such prior estate shall by such settlement have been settled, or agreed or directed to be settled, to her separate use, then and in such case she alone shall in respect of such estate be the protector of such settlement. and where she and her husband together shall be protector.

XXV. Provided always, That, except in the case of a lease hereinafter provided for, where an estate shall be limited by a settlement by restored by set-way of confirmation, or where the settlement shall merely have the effect of restoring an estate, in either of those cases such estate shall for the purposes of this act, so far as regards the protector of the settlement, be deemed an estate subsisting under such settlement.

XXVI. Provided always, That where a lease at a rent shall be created rent created by or confirmed by a settlement, the person in whose favour such lease shall be created or confirmed shall not in respect thereof be the protector of such settlement.

XXVII. Provided always, That no woman in respect of her dower, and (except in the case herein-after provided for of a bare trustee under a settlement made on or before the thirty-first day of December one to be protector, thousand eight hundred and thirty-three) no bare trustee, heir, executor, administrator, or assign, in respect of any estate taken by him as such bare trustee, heir, executor, administrator, or assign, shall be the protector of a settlement.

XXVIII. Provided always, That where under any settlement there shall be more than one estate prior to an estate tail, and the person who shall be the owner within the meaning of this act of any such prior estate, in respect of which but for the two last preceding clauses, or either of them, he would have been the protector of the settlement, shall by virtue of such clauses, or either of them, be excluded from being the protector, then and in such case the person (if any) who if such estate did not exist would be the protector of the settlement shall be such protector.

XXIX. Provided always, That where already, or on or before the disposition of an thirty-first day of December one thousand eight hundred and thirtythree, an estate under a settlement shall have been disposed of either absolutely or otherwise, and either for valuable consideration or not, the person who in respect of such estate would, if this act had not been passed, have been the proper person to have made the tenant to the writ of entry or other writ for suffering a common recovery of the lands entailed by such settlement, shall, during the continuance of the estate which conferred the right to make the tenant to such writ of entry or

other writ, be the protector of such settlement.

XXX. Provided always, That where any person having either already, case of the dis- or on or before the thirty-first day of December one thousand eight hundred and thirty-three, either for valuable consideration or not, disreversion on or posed of, either absolutely or otherwise, a remainder or reversion in fee before the 31st in any lands, or created any estate out of such remainder or reversion, of Dec. 1833, would under this act, if this clause had not been inserted, have been the protector of the settlement by which the lands were entailed in which such remainder or reversion may be subsisting, and thereby be enabled to concur in the barring of such remainder or reversion, which he could not have done if he had not become such protector, then and in every such case the person who, if this act had not been passed, would have been the proper person to have made the tenant to the writ of entry or other writ for suffering a common recovery of such lands, shall, during the continuance of the estate which conferred the right to make the tenant to such writ of entry or other writ, be the protector of such settlement.

XXXI. Provided always, That where, under any settlement of lands made before the passing of this act, the person who, if this act had not 3 & 4 W. 4, been passed, would have been the proper person to make the tenant to the writ of entry or other writ for suffering a common recovery of such lands for the purpose of barring any estate tail or other estate under Where a bare such settlement, shall be a bare trustee, such trustee shall, during the trustee under a continuance of the estate conferring on him the right to make the settlement tenant to such writ of entry or other writ, be the protector of such made before settlement. the passing of this act shall be the protector.

XXXII. Provided always, that it shall be lawful for any settlor en- Power to any tailing lands to appoint, by the settlement by which the lands shall be settler to apentailed, any number of persons in esse, not exceeding three, and not peint the probeing aliens, to be protector of the settlement in lieu of the person who tector. would have been the protector if this clause had not been inserted, and either for the whole or any part of the period for which such person might have continued protector, and by means of a power to be inserted in such settlement to perpetuate during the whole or any part of such period the protectorship of the settlement in any one person or number of persons in esse, and not being an alien or aliens, whom the donee of the power shall think proper by deed to appoint protector of the settlement in the place of any one person or number of persons who shall die or shall by deed relinquish his or their office of protector; and the person or persons so appointed shall, in case of there being no other person then protector of the settlement, be the protector, and shall, in case of there being any other person then protector of the settlement, be protector jointly with such other person: Provided nevertheless, that by virtue or means of any such appointment the number of the persons to compose the protector shall never exceed three: Provided further nevertheless, that every deed by which a protector shall be appointed under a power in a settlement, and every deed by which a protector shall relinquish his office, shall be void unless inrolled in his Majesty's high court of chancery within six calendar months after the execution thereof: Provided further nevertheless, that the person who but for this clause would have been sole protector of the settlement may be one of the persons to be appointed protector under this clause, if the settlor shall think fit, and shall, unless otherwise directed by the settlor, act as sole protector if the other persons constituting the protector shall have ceased to be so by death or relinquishment of the office by deed, and no other person shall have been appointed in their place.

XXXIII. Provided always, That if any person, protector of a settle- In cases of lument, shall be lunatic, idiot, or of unsound mind, and whether he nacy, the lord shall have been found such by inquisition or not, then the lord high chancellor or chanceller of Great Britain, or the lord keeper or the lords commissioners lord keeper or for the custody of the great seal of Great Britain, for the time being, lords commisor other the person or persons for the time being intrusted by the king's sioners, or other sign manual with the care and commitment of the custody of the persons intrustand estates of persons found lunatic, idiot, and of unsound mind, shall tics, or in cases be the protector of such settlement in lieu of the person who shall be of treason or such lunstic or idiot or of unsound mind as aforesaid; or if any person, felony, &c. the protector of a settlement, shall be convicted of treason or felony, or if court of chanany person, not being the owner of a prior estate under a settlement, cery to be the shall be protector of such settlement, and shall be an infant, or if it shall protector. be uncertain whether such last-mentioned person be living or dead, then his Majesty's high court of chancery shall be the protector of such settlement in lieu of the person who shall be an infant, or whose existence cannot be ascertained as aforesaid; or if any settlor entailing lands shall in the settlement by which the lands shall be entailed declare that the person who as owner of a prior estate under such settlement would be entitled to be protector of the settlement shall not be such protector, and shall not appoint any person to be protector in his stead, then the said court of chancery shall, as to the lands in which such prior estate shall be subsisting, be the protector of the settlement

No. I.

during the continuance of such estate; or if in any other case where 3 & 4 W. 4, there shall be subsististing under a settlement an estate prior to an estate tail under the same settlement, and such prior estate shall be sufficient to qualify the owner thereof to be protector of the settlement, and there shall happen at any time to be no protector of the settlement as to the lands in which the prior estate shall be subsisting, the said court of chancery shall, while there shall be no such protector, and the prior estate shall be subsisting, be the protector of the settlement as to such lands.

Where there is consent requiate to enable an actual tenant in tail to create a larger estate than a base fee.

XXXIV. Provided always, That if at the time when any person, a protector, his actual tenant in tail of lands under a settlement, but not entitled to the remainder or reversion in fee immediately expectant on the determination of his estate tail, shall be desirous of making under this act a disposition of the lands entailed, there shall be a protector of such settlement, then and in every such case the consent of such protector shall be requisite to enable such actual tenant in tail to dispose of the lands entailed to the full extent to which he is herein-before authorized to dispose of the same; but such actual tenant in tail may, without such consent, make a disposition under this act of the lands entailed, which shall be good against all persons who, by force of any estate tail which shall be vested in or might be claimed by, or which but for some previous act or default would have been vested in or might have been claimed by, the person making the disposition at the time of his making the same, shall claim the lands entailed.

XXXV. Provided always, That where an estate tail shall have been fee, and a pro- converted into a base fee, in such case, so long as there shall be a protector, his con- tector of the settlement by which the estate tail was created, the consent of such protector shall be requisite to enable the person who would have been tenant of the estate tail if the same had not been barred to exercise. as to the lands in respect of which there shall be such protector, the power of disposition herein-before contained.

The protector no control in the exercise of his power of consenting.

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ing of a power

of disposition.

XXXVI. That any device, shift, or contrivance by which it shall be to be subject to attempted to control the protector of a settlement in giving his consent, or to prevent him in any way from using his absolute discretion in regard to his consent, and also any agreement entered into by the protector of a settlement to withhold his consent, shall be void; and that the protector of a settlement shall not be deemed to be a trustee in respect of his power of consent; and a court of equity shall not control or interfere to restrain the exercise of his power of consent, nor treat his giving consent as a breach of trust.

XXXVII. Provided always, That the rules of equity in relation to Certain rules of dealings and transactions between the donee of a power and any object of the power in whose favour the same may be exercised, shall not be held to apply to dealings and transactions between the protector of a settlement and a tenant in tail under the same settlement, upon the occasion of the protector giving his consent to a disposition by a tenant

equity not to apply between the protector and a tenant in tail under the same.

in tail under this act. XXXVIII. Provided always, That when a tenant in tail of lands under a settlement shall have already created or shall hereafter create in such lands, or any of them, a voidable estate in favour of a purchaser for valuable consideration, and shall afterwards under this act, by any of a purchaser, assurance other than a lease not requiring involment, make a disposition confirmed by a of the lands in which such voidable estate shall be created, or any of them, such disposition, whatever its object may be, and whatever may be the extent of the estate intended to be thereby created, shall, if made by the tenant in tail with the consent of the protector (if any) of the but not against settlement, or by the tenant in tail alone, if there shall be no such protector, have the effect of confirming such voidable estate in the lands without notice, thereby disposed of to its full extent as against all persons except those whose rights are saved by this act; but if at the time of making the disposition there shall be a protector of the settlement, and such protector shall not consent to the disposition, and the tenant in tail shall

A voidable estate by a tenant in tail, in favour subsequent disposition of such tenant in tail under this act. a purchaser

not without such consent be capable under this act of confirming the voidable estate to its full extent, then and in such case such disposition shall have the effect of confirming such voidable estate so far as such tenant in tail would then be capable under this act of confirming the same without such consent: Provided always, That if such disposition shall be made to a purchaser for valuable consideration, who shall not have express notice of the voidable estate, then and in such case the voidable estate shall not be confirmed as against such purchaser and the persons claiming under him.

No. I. 3 & 4 W. 4, c. 74.

XXXIX. That if a base fee in any lands, and the remainder or rever. Base fees, when sion in fee in the same lands, shall at the time of the passing of this act, united with the or at any time afterwards, be united in the same person, and at any immediate retime after the passing of this act there shall be no intermediate estate versions, en-between the base fee and the remainder or reversion, then and in such larged instead of being case the base fee shall not merge, but shall be ipso facto enlarged into merged. as large an estate as the tenant in tail, with the consent of the protector (if any) might have created by any disposition under this act if such remainder or reversion had been vested in any other person.

XL. That every disposition of lands under this act by a tenant in Tenant in tail tail thereof shall be effected by some one of the assurances (not being a to make a diswill) by which such tenant in tail could have made the disposition if his position by deed estate were an estate at law in fee simple absolute: Provided never- as if seised in theless, That no disposition by a tenant in tail shall be of any force fee, but not by cither at law or in equity, under this act, unless made or evidenced by will or condeed; and that no disposition by a tenant in tail resting only in contract; and if a deed; and that no disposition by a tenant in tail resting only in con-married wo-tract, either express or implied, or otherwise, and whether supported man, with her by a valuable or meritorious consideration or not, shall be of any force husband's conat law or in equity under this act, notwithstanding such disposition currence. shall be made or evidenced by deed; and if the tenant in tail making the disposition shall be a married woman, the concurrence of her husband shall be necessary to give effect to the same; and any deed which may be executed by her for effecting the disposition shall be

acknowledged by her as herein-after directed. XLI. Provided always, That no assurance by which any disposition Every assurof lands shall be effected under this act by a tenant in tail thereof ance by a (except a lease for any term not exceeding twenty-one years, to com- tenant in tail, mence from the date of such lease, or from any time not exceeding except a lease twelve calendar months from the date of such lease, where a rent shall not exceeding be thereby reserved, which, at the time of granting such lease, shall be 21 years at a a rack rent, or not less than five sixth parts of a rack rent,) shall have not less than any operation under this act unless it be inrolled in his Majesty's high five-sixths of a court of chancery within six calendar months after the execution rack rent, to be thereof; and if the assurance by which any disposition of lands shall inoperative unbe effected under this act shall be a bargain and sale, such assurance, less inrolled in although not inrolled within the time prescribed by the act passed in chancery withthe twenty-seventh year of the reign of his Majesty king Henry the in six months. eighth, intituled For Invollment of Bargains and Sales, shall, if involled 28 H.8, c. 16. in the said court of chancery within the time prescribed by this clause, be as good and valid as the same would have been if the same had been inrolled in the said court within the time prescribed by the said act of Henry the eighth.

XLII. That the consent of the protector of a settlement to the dis- Consent of the position under this act of a tenant in tail shall be given either by the protector to be same assurance by which the disposition shall be effected, or by a deed given by the distinct from the assurance, and to be executed either on or at any same assurance time before the day on which the assurance shall be made, otherwise or by a distinct the consent shall be void. the consent shall be void.

XLIII. That if the protector of a settlement shall, by a distinct If by distinct deed, give his consent to the disposition of a tenant in tail, it shall be deed, to be conconsidered that such protector has given an absolute and unqualified sidered unqualified, unless he refer to the assurance.

No. I. c. 74.

Protector not to revoke his consent

A married tor to consent as a feme sole. Consent of a protector by distinct deed void, unless inrolled with or before the asrurance.

excluded from giving any efin tail, or consents of protectors of settlements, which in courts of iaw would not be effectual.

Lord chancellor, &c. to have power to consent to a disposition by a tenant in tail, and to make such orders as shall be thought necessary; and if any other person shall be joint protector the disposition not to be valid without his consent.

consent, unless in such deed he shall refer to the particular assurance 2 & 3 W. 4, by which the disposition shall be effected, and shall confine his consent to the disposition thereby made.

XLIV. That it shall not be lawful for the protector of a settlement who, under this act, shall have given his consent to the disposition of a

tenant in tail, to revoke such consent.

XLV. That any married woman, being either alone or jointly with her husband protector of a settlement, may under this act, in the same woman protec- manner as if she were a feme sole, give her consent to the disposition of a tenant in tail.

XLVI. Provided always, That the consent of a protector to the disposition of a tenant in tail shall, if given by a deed distinct from the assurance by which the disposition shall be effected by the tenant in tail, be void, unless such deed be inrolled in his Majesty's high court of chancery either at or before the time when the assurance shall be inrolled.

XLVII. That in cases of dispositions of lands under this act by Courts of equity tenants in tail thereof, and also in cases of consents by protectors of settlements to dispositions of lands under this act by tenants in tail thereof, the jurisdiction of courts of equity shall be altogether excluded, fect to disposi- either on the behalf of a person claiming for a valuable or meritorious tions by tenants consideration, or not, in regard to the specific performance of contracts, and the supplying of defects in the execution either of the powers of disposition given by this act to tenants in tail, or of the powers of consent given by this act to protectors of settlements, and the supplying under any circumstances of the want of execution of such powers of disposition and consent respectively, and in regard to giving effect in any other manner to any act or deed by a tenant in tail or protector of a settlement which in a court of law would not be an effectual disposition or consent under this act; and that no disposition of lands under this act by a tenant in tail thereof in equity, and no consent by a protector of a settlement to a disposition of lands under this act by a tenant in tail thereof in equity, shall be of any force unless such disposition or consent would in case of an estate tail at law be an effectual disposition or consent under this act in a court of law.

> XLVIII. Provided always, That in every case in which the lord high chancellor, lord keeper or lords commissioners for the custody of the great seal, or other the person or persons intrusted with the care and commitment of the custody of the persons and estates of persons found lunatic, idiot, and of unsound mind, or his Majesty's high coust of chancery, shall be the protector of a settlement, such lord high chancellor, lord keeper, or lords commissioners, or person or persons so intrusted as aforesaid, or the said court of chancery (as the case may be), while protector of such settlement, shall, on the motion or petition in a summary way by a tenant in tail under such settlement, have full power to consent to a disposition under this act by such tenant in tail, and the disposition to be made by such tenant in tail upon such motion or petition as aforesaid shall be such as shall be approved of by such lord high chancellor, lord keeper, or lords commissioners, or person or persons so intrusted as aforesaid, or the said court of chancery (as the case may be); and it shall be lawful for such lord high chancellor, lord keeper, or lords commissioners, or person or persons so intrusted as aforesaid, or the said court of chancery (as the case may be), to make such orders in the matter as shall be thought necessary; and if such lord high chancellor, lord keeper, or lords commissioners, or person or persons so intrusted as aforesaid, or the said court of chancery (as the case may be), shall, in lieu of any such person as aforesaid, be the protector of a settlement, and there shall be any other person protector of the same settlement jointly with such person as aforesaid, then and in every such case the disposition by the tenant in tail, though approved of as aforesaid, shall

not be valid, unless such other person being protector as aforesaid shall consent thereto in the manner in which the consent of the 3 & 4 W. 4,

protector is by this act required to be given.

XLIX. Provided always, That in every case in which the lord high chancellor, lord keeper or lords commissioners for the custody of the Order of the great seal, or other the person or persons intrusted with the care and lord chancelcommitment of the custody of the persons and estates of persons found lor, &c. to be lunatic, idiot, and of unsound mind, or his Majesty's high court of evidence of chancery, shall be the protector of a settlement, no document or instrument, as evidence of the consent of such protector to the disposition of a tenant in tail under such settlement, shall be requisite beyond the order in obedience to which the disposition shall have heen made.

L. That all the previous clauses in this act, so far as circumstances The previous and the different tenures will admit, shall apply to lands held by copy clauses to apof court roll, except that a disposition of any such lands under this act ply to copyby a tenant in tail thereof, whose estate shall be an estate at law, shall helds, with cerbe made by surrender, and except that a disposition of any such lands tain variations. under this act by a tenant in tail thereof, whose estate shall be merely an estate in equity, may be made either by surrender or by a deed as herein-after provided, and except so far as such clauses are otherwise

altered or varied by the clauses herein-after contained.

LI. Provided always, That if the consent of the protector of a As to the deed settlement to the disposition of lands held by copy of court roll by a of consent and tenant in tail thereof shall be given by deed, such deed shall, either at the entry of it or before the time when the surrender shall be made by which the disposition shall be effected, be executed by such protector, and produced protector of a to the lord of the manor of which the lands are parcel, or to his settlement of steward, or to the deputy of such steward; and the consent of such copyholds conprotector shall be void unless such deed shall be so executed and pro- sents by deed to duced; and on the production of the deed the lord, or steward, or the disposition deputy steward, shall by writing under his hand, to be indorsed on the of a tenant in deed, acknowledge that the same was produced within the time limited, tail. and shall cause such deed, with the indorsement thereon, to be entered on the court rolls of the manor; and the indorsement, purporting to be so signed, shall of itself be primd facie evidence that the deed was produced within the time limited, and that the person who signed the indorsement was the lord of the manor, or his steward, or the deputy of such steward; and after such deed shall have been so entered the lord of the manor, or his steward, or the deputy of such steward, shall indorse thereon a memorandum signed by him, testifying the entry of the same on the court rolls.

LII. Provided always, That if the consent of the protector of a settle- As to the conment to the disposition of lands held by copy of court roll by a tenant sent of the proin tail thereof shall not be given by deed, then and in such case the tector of a setconsent shall be given by the protector to the person taking the tlement of surrender by which the disposition shall be effected; and if the sur-copyholds render shall be made out of court, it shall be expressly stated in the when not memorandum of such surrender that such consent had been given, and given by deed, sch memorandum shall be signed by the protector; and the lord of serving of evithe manor of which the lands are parcel, or his steward, or the deputy dence of the of such steward, shall cause the memorandum, with such statement same on the therein as to the consent, to be entered on the court rolls of the manor; court rolls. and such memorandum shall be good evidence of the consent and of the surrender therein stated to be made; and the entry of the memorandum on the court rolls, or a copy of such entry, shall be as available for the purposes of evidence as any other entry on the court rolls, or a copy thereof; but if the surrender shall be made in court, the lord of the manor, or his steward, or the deputy of such steward, shall cause an entry of such surrender, containing a statement that such consent had been given, to be made on the court rolls; and the entry of such surrender on the court rolls, or a copy of such entry, shall be as available for the

No. I. c. 74.

No. I. 3 & 4 W. 4, thereof.

purposes of evidence as any other entry on the court rolls, or a copy

c. 74. to dispose of their lands by deed.

LIII. Provided always, That a tenant in tail of lands held by copy of court roll, whose estate shall be merely an estate in equity, shall have Power to equit-full power by deed to dispose of such lands under this act in the same able tenants in manner in every respect as he could have done if they had been of tail of copholds freehold tenure; and all the previous clauses in this act shall, so far as circumstances will admit, apply to the lands in respect of which any such equitable tenant in tail shall avail himself of this present clause; and the deed by which the disposition shall be effected shall be entered on the court rolls of the manor of which the lands thereby disposed of may be parcel; and if there shall be a protector to consent to the disposition, and such protector shall give his consent by a distinct deed, the consent shall be void unless the deed of consent be executed by the protector either on or at any time before the day on which the deed of disposition shall be executed by the equitable tenant in tail; and such deed of consent shall be entered on the court rolls; and it shall be imperative on the lord of the manor, or his steward, or the deputy of such steward, when required so to do, to enter such deed or deeds on the court rolls, and he shall indorse on each deed so entered a memorandum, signed by him, testifying the entry of the same on the court rolls; Provided always, That every deed by which lands held by copy of court roll shall be disposed of under this clause, by an equitable tenant in tail thereof, shall be void against any person claiming such lands, or any of them, for valuable consideration under any subsequent assurance duly entered on the court rolls of the manor of which the lands may be parcel, unless the deed of disposition by the equitable tenant in tail be entered on the court rolls of such manor before the subsequent assurance shall have been entered.

LIV. Provided always, That in no case where any disposition under necessary as to this act of lands held by copy of court roll, by a tenant in tail thereof, shall be effected by surrender or by deed, shall the surrender or the memorandum, or a copy thereof, or the deed of disposition, or the deed, if any, by which the protector shall consent to the disposition, require

inrolment otherwise than by entry on the court rolls.

Repeal of the bankrupt act, 6 G. 4, c. 16, s. 65, so far as relates to estates tail, but not to extend to rupt under a nor to revive former acts.

case of an

Involment not

copyholds.

LV. That after the thirty-first day of December one thousand eight hundred and thirty-three so much of an act passed in the sixth year of the reign of his late Majesty king George the fourth, intituled An Act to amend the Laws relating to Bankrupts, as empowers the commissioners named in any commission of bankrupt issued against a tenant in tail to make sale of any lands, tenements, and hereditaments, situate either in lands of a bank. England or Ireland, whereof such bankrupt shall be seised of any estate tail in possession, reversion, or remainder, and whereof no revercommission or sion or remainder is in the crown, the gift or provision of the crown, fiat issued on or shall be and the same is hereby repealed: Provided always, That such before the 31st repeal shall not extend to the lands, whatever the tenure may be, of any of Dec. 1833, person adjudged a bankrupt under any commission of bankrupt, or under any fiat which, in pursuance of the said act of the sixth year of the reign of king George the fourth, or of any former act concerning bankrupts, or of an act passed in the first and second years of the reign of his Majesty king William the fourth, intituled An Act to establish a Court of Bankruptcy, hath been or shall be issued on or before the thirty-first day of December one thousand eight hundred and thirtythree: Provided also, That such repeal shall not have the effect of reviving in any respect the acts repealed by the said act of the sixth year of the reign of king George the fourth, or any of them.

LVI. That any commissioner acting in the execution of any fiat The commiswhich after the thirty-first day of December one thousand eight sioner, in the hundred and thirty-three shall be issued in pursuance of the said act passed in the first and second years of the reign of king William the actual tenant in tail becoming fourth, under which any person shall be adjudged a bankrupt who at

the time of issuing such fiat, or at any time afterwards, before he shall have obtained his certificate, shall be an actual tenant in tail of lands of 3 & 4 W. 4, any tenure, shall by deed dispose of such lands to a purchaser for valuable consideration, for the benefit of the creditors of such actual tenant in tail, and shall create by any such disposition as large an bankrupt after estate in the lands disposed of as the actual tenant in tail, if he had not the 31st of Dec. become bankrupt, could have done under this act at the time of such 1833, by deed disposition: Provided always, That if at the time of the disposition of to dispose of such lands, or any of them, by such commissioner as aforesaid, there the lands of the shall be a protector of the settlement by which the estate of such actual bankrupt to a tenant in tail in the lands disposed of by such commissioner was purchaser. created, and the consent of such protector would have been requisite to have enabled the actual tenant in tail, if he had not become bankrupt, to have disposed of such lands to the full extent to which, if there had been no such protector, he could under this act have disposed of the same, and such protector shall not consent to the disposition, then and in such case the estate created in such lands, or any of them, by the disposition of such commissioner, shall be as large an estate as the actual tenant in tail, if he had not become bankrupt, could at the time of such disposition have created under this act in such lands without the consent of the protector.

LVII. That any commissioner acting in the execution of any such fiat Commissioner, in case of a as aforesaid under which any person shall be adjudged a bankrupt who tenant in tail at the time of issuing such fiat, or at any time afterwards before he shall entitled to a have obtained his certificate, shall be a tenant in tail entitled to a base base fee becomfee in lands of any tenure, shall by deed dispose of such lands to a pur- ing bankrupt, chaser for valuable consideration, for the benefit of the creditors of the and of there person so entitled as aforesaid, provided at the time of the disposition being no prothere be no protector of the settlement by which the estate tail converted tector, by deed into the base fee was created; and by such disposition the base fee to dispose of the shall be enlarged into as large an estate as the same could at the time of lands of the such disposition have been enlarged into under this act by the person bankrupt to a

so entitled if he had not become bankrupt.

LVIII. That the commissioner acting in the execution of any such As to the confiat as aforesaid under which a person being, or before obtaining his sent of the procertificate becoming, an actual tenant in tail of lands of any tenure, or a tector in case of tenant in tail entitled to a base fee in lands of any tenure, shall be adjudged a bankrupt, shall, if there shall be a protector of the settlement by which the estate tail of such actual tenant in tail, or the estate tail converted into a base fee (as the case may be), was created, stand in the place of such actual tenant in tail, or tenant in tail so entitled as aforesaid, so far as regards the consent of such protector; and the disposition of such lands, or any of them, by such commissioner as aforesaid, if made with the consent of such protector, shall, whether such commissioner may have made under this act a prior disposition of the same lands without the consent of such protector or not, or whether a prior sale or conveyance of the same lands shall have been made or not, under the said acts of the sixth year of king George the fourth and the first and second years of king William the fourth, or either of them, or any acts hereafter to be passed concerning bankrupts, have the same effect as such disposition would have had if such actual tenant in tail, or tenant in tail so entitled as aforesaid, had not become bankrupt, and such disposition had been made by him under this act, with the consent of such protector; and all the previous clauses in this act, in regard to the consent of the protector to the disposition of a tenant in tail of lands not held by copy of court roll, and in regard to the time and manner of giving such consent, and in regard to the inrolment of the deed of consent, where such deed shall be distinct from the assurance by which the disposition of the commissioner shall be effected, shall, except so far as the same may be varied by the clause next herein-after contained, apply to every consent that may be given by virtue of this present clause.

bankruptcy.

LIX. That every deed by which any commissioner acting in the exe- As to the inrol-

and the entry on the court rolls of the deed copyhold lands;

and of the deed of consent.

Subsequent enlargement of base fees created by the disposition of the commissioner.

Enlargement of quent to the ance of the same under the bankrupt acts.

A voidable eschaser by an actual tenant a tenant in tail entitled to a base fee becoming bank-

cution of any such fiat as aforesaid shall, under this act, dispose of 3 & 4 W. 4, lands not held by copy of court roll, shall be void unless inrolled in his Majesty's high court of chancery within six calendar months after the execution thereof; and every deed by which any commissioner acting in ment in chan- the execution of any such fiat as aforesaid shall, under this act, dispose cery of the deed of lands held by copy of court roll, shall be entered on the court rolls of disposition of of the manor of which the lands may be parcel; and if there shall be freehold lands, a protector who shall consent to the disposition of such lands held by copy of court roll, and he shall give his consent by a distinct deed, the consent shall be void unless the deed of consent be executed by the of disposition of protector either on or at any time before the day on which the deed of disposition shall be executed by the commissioner; and such deed of consent shall be entered on the court rolls; and it shall be imperative on the lord of every manor of which any lands disposed of under this act by any such commissioner as aforesaid may be parcel, or the steward of such lord, or the deputy of such steward, to enter on the court rolls of the manor every deed required by this present clause to be entered on the court rolls, and he shall indorse on every deed so entered a memorandum, signed by him, testifying the entry of the same on the court rolls.

LX. That if any commissioner acting in the execution of any such fiat as aforesaid shall, under this act, dispose of any lands of any tenure of which the bankrupt shall be actual tenant in tail, and in consequence of there being a protector of the settlement by which the estate of such actual tenant in tail was created, and of his not giving his consent, only a base fee shall by such disposition be created in such lands, and if at any time afterwards during the continuance of the base fee there shall cease to be a protector of such settlement, then and in such case, and immediately thereupon, such base fee shall be enlarged into the same estate into which the same could have been enlarged under this act if at the time of the disposition by such commissioner as aforesaid there had been no such protector.

LXI. That if a tenant in tail entitled to a base fee in lands of any base sees subse- tenure shall be adjudged a bankrupt at the time when there shall be a protector of the settlement by which the estate tail converted into the sale or convey- base fee was created, and if such lands shall be sold or conveyed under the said acts of the sixth year of king George the fourth and the first and second years of king William the fourth, or either of them, or any other acts hereafter to be passed concerning bankrupts, and if at any time afterwards during the continuance of the base fee in such lands there shall cease to be a protector of such settlement, then and in such case, and immediately thereupon, the base fee in such lands shall be enlarged into the same estate into which the same could have been enlarged under this act if at the time of the adjudication of such bankruptcy there had been no such protector, and the commissioner acting in the execution of the fiat under which the tenant in tail so entitled shall have been adjudged a bankrupt had disposed of such lands under this act.

LXII. Provided always, That where an actual tenant in tail of lands tate created in of any tenure, or a tenant in tail entitled to a base fee in lands of any favour of a pur- tenure, shall have already created or shall hereafter create in such lands, or any of them, a voidable estate in favour of a purchaser for valuable consideration, and such actual tenant in tail, or tenant in tail in tail becoming so entitled as aforesaid, shall be adjudged a bankrupt under any such bankrupt, or by fiat as aforesaid, and the commissioner acting in the execution of such fiat shall make any disposition under this act of the lands in which such voidable estate shall be created, or any of them, then and in such case, if there shall be no protector of the settlement by which the estate rupt, confirmed tail of the actual tenant in tail, or the estate tail converted into a base by the disposi- fee, as the case may be, was created, or being such protector he shall tion of the com- consent to the disposition by such commissioner as aforesaid, whether missioner, if no such commissioner may have made under this act a previous disposition

of such lands or not, or whether a prior sale or conveyance of the same lands shall have been made or not under the said acts of the sixth year 3 & 4 W. 4, of king George the fourth and the first and second years of king William the fourth, or either of them, or any other acts hereafter to be passed concerning bankrupts, the disposition by such commissioner shall have protector, or the effect of confirming such voidable estate in the lands thereby dis-being such posed of to its full extent as against all persons except those whose with his conrights are saved by this act; and if at the time of the disposition by sent, or on there by such commissioner, in the case of an actual tenant in tail, there ceasing to be a shall be a protector, and such protector shall not consent to the disposi- protector; but tion by such commissioner, and such actual tenant in tail, if he had not purchaser, been adjudged a bankrupt, would not without such consent have been without notice. capable under this act of confirming the voidable estate to its full extent, then and in such case such disposition shall have the affect of confirming such voidable estate so far as such actual tenant in tail, if he had not been adjudged a bankrupt, could at the time of such disposition have been capable under this act of confirming the same without such consent; and if at any time after the disposition of such lands by such commissioner, and while only a base fee shall be subsisting in such lands, there shall cease to be a protector of such settlement, and such protector shall not have consented to the disposition by such commissioner, then and in such case such voidable estate, so far as the same may not have been previously confirmed, shall be confirmed to its full extent as against all persons except those whose rights are saved by this act: Provided always, that if the disposition by any such commissioner as aforesaid shall be made to a purchaser for valuable consideration, who shall not have express notice of the voidable estate, then and in such case the voidable estate shall not be confirmed against such purchaser and the persons claiming under him.

LXIII. That all acts and deeds done and executed by a tenant in tail Acts of a bankof lands of any tenure, who shall be adjudged a bankrupt under any rupt tenant in such fiat as aforesaid, and which shall affect such lands or any of them, tail void against and which, if he had been seised of or entitled to such lands in fee under this act simple absolute, would have been void against the assignees of the by the commisbankrupt's estate, and all persons claiming under them, shall be void against any disposition which may be made of such lands under this act

by such commissioner as aforesaid.

LXIV. Provided always, That, subject and without prejudice to the Subject to the powers of disposition given by this act to the commissioner acting in the powers given to execution of any such fiat as aforesaid under which a person being, or the commisbefore obtaining his certificate becoming, an actual tenant in tail of sioner, and to lands of any tenure, or a tenant in tail entitled to a base fee in lands of the estate in the any tenure shall be adjudged a bankrupt, and also subject and without bankrupt teprejudice to the estate in such lands which may be vested in the assig-nantintail shall nees of the bankrupt's estate, and also subject and without prejudice to retain his the rights of all persons claiming under the said assignees in respect powers of disof such lands or any of them, such actual tenant in tail, or tenant in position. tail so entitled as aforesaid, shall have the same powers of disposition under this act in regard to such lands as he would have had if he had not become bankrupt.

LXV. That any disposition under this act of lands of any tenure by The disposition any commissioner acting in the execution of any such fiat as aforesaid by the commisunder which a person being, or before obtaining his certificate becoming, sioner of the an actual tenant in tail of such lands, or a tenant in tail entitled to a lands of a bankbase fee in such lands shall be adjudged a bankrupt, shall, although the rupt tenant in base fee in such lands shall be adjudged a pankrupt, snall, although the tail shall, if the bankrupt be dead at the time of the disposition, be in the following cases bankrupt be as valid and effectual as the same would have been and have the same dead, have in operation under this act as the same would have had, if the bankrupt the cases herewere alive; (that is to say,) in case at the time of the bankrupt's decease in mentioned there shall be no protector of the settlement by which the estate tail the same operaof the actual tenant in tail, or the estate tail converted into a base fee, tion as if he as the case may be, was created; or in case the bankrupt had been an were alive.

No. I.

No. I. 3 & 4 W. 4. c. 74.

actual tenant in tail of such lands, and there shall at the time of the disposition be any issue inheritable to the estate tail of the bankrupt in such lands, and either no protector of the settlement by which the estate tail was created, or a protector of such settlement who, in the manner required by this act, shall consent to the disposition, or a protector of such settlement who shall not consent to the disposition; or in case the bankrupt had been a tenant in tail entitled to a base fee in such lands, and there shall at the time of the disposition be any issue who if the base fee had not been created would have been actual tenant in tail of such lands, and either no protector of the settlement by which the estate tail converted into a base fee was created, or a protector of such settlement who, in the manner required by this act, shall consent to the disposition.

Every disposition by the commissioner of copyhold estate shall not be equitable to have the same operation as surrender; and the person to whom such paying the fines, &c.

LXVI. That every disposition which under this act may be made by any commissioner acting in the execution of any such fiat as aforesaid of lands held by copy of court roll shall, in every case in which the estate of the bankrupt in such lands shall not be merely an estate in lands where the equity, operate in the same manner as if such lands had, for the same estate which shall have been acquired by the disposition by such commissioner as aforesaid, been duly surrendered into the hands of the lord of the manor of which they may be parcel, to the use of the person to whom the same shall have been disposed of by such commissioner; and the person to whom the lands shall have been so disposed of by such commissioner may claim to be admitted tenant of such lands, to hold land shall have the same by the ancient rents, customs, and services, in the same manbeen disposed ner as if such lands had been duly surrendered to his use into the hands of may claim to of the lord of the manor of which such lands may be parcel, and shall, be admitted on upon being admitted tenant of such lands, to hold the same as aforesaid, pay the fines, fees, and other dues which could have been lawfully demanded upon such admittance if such lands had, for the same estate which shall have been acquired by the disposition by such commissioner as aforesaid, passed by surrender into the hands of the lord, to the use of the person so admitted.

Assignees to rebankrupt, of missioner has power to make disposition, and the commissioner may dispose of after the bankrupt's death.

LXVII. That the rents and profits of any lands of which any comcover rents of missioner acting in the execution of any such fiat as aforesaid hath the lands of a power to make disposition under this act shall in the meantime and until such disposition shall be made, or until it shall be ascertained that which the com- such disposition shall not be required for the benefit of the creditors of the person adjudged bankrupt under the fiat, be received by the assignees of the estate of the bankrupt, for the benefit of his creditors; and the assignees may proceed by action of debt for the recovery of covenants, as if such rents and profits, or may distrain for the same upon the lands entitled to the subject to the payment thereof, and in case any action of trespass shall reversion. This be brought for taking any such distress may plead thereto the general clause to apply issue, and give this act or other special matter in evidence, and also, in to all copyhold case any such distress shall be replevied, shall have power to avow or lands; but as make cognizance generally in such manner and form as any landlord to other lands, may now do by virtue of the statute made in the eleventh year of the only to such as reign of his Majesty king George the second, intituled An Act for the more effectual securing the Payment of Rents and preventing Frauds by Tenants, or by any other law or statute now in force or hereafter to be made for the more effectually recovering of rent in arrear; and such assignees, and their bailiffs, agents, and servants, shall also have all such and the same remedies, powers, privileges, and advantages of pleading, avowing, and making cognizance, and be entitled to the same costs and damages, and the same remedies for the recovery thereof, as landlords, their bailiffs, agents, and servants, are now or hereafter may be by law entitled to have when rent is in arrear; and such assignees shall also have the same power and authority of enforcing the observance of all covenants, conditions, and agreements in respect of the lands of which such commissioner as aforesaid hath the power of disposition under this act, and in respect of the rents and profits thereof, and of

11 G. 2, c. 19.

entry into and upon the same lands for the nonobservance of any such covenant, condition, and agreement, and of expelling and amoving 3 & 4 W. 4, therefrom the tenants or other occupiers thereof, and thereby determining and putting an end to the estate of the persons who shall not have observed such covenants, conditions, and agreements, as the bankrupt would have had in case he had not been adjudged a bankrupt: Provided always, that this clause shall apply to all lands held by copy of court roll, but shall only apply to those lands of any other tenure which any commissioner acting in the execution of any such fiat as aforesaid may have power to dispose of under this act after the bankrupt's decease.

No. I. c. 74.

LXVIII. That all the provisions in this act contained for the benefit All the proviof the creditors of persons who under such fiats as aforesaid shall be sions of the act adjudged bankrupts after the thirty-first day of December one thousand in regard to eight hundred and thirty-three, and for the confirmation in consequence bankrupts shall of bankruptcy of voidable estates created by them, shall extend and apply to their apply to the lands of any tenure in Ireland of such persons as fully lands in Ireand effectually as if this act had throughout extended to lands of any tenure in Ireland; saving always the rights of the king's most excellent Majesty, his heirs and successors, to any reversion or remainder in the crown in lands in Ireland.

LXIX. Provided always, That in all cases of bankruptcy, every deed Deeds relating of disposition under this act of lands in Ireland by any commissioner to the lands of acting in the execution of any such fiat as aforesaid, and also every bankrupts in deed by which the protector of a settlement of lands in Ireland shall Ireland to be consent, shall be inrolled in his Majesty's high court of chancery in inrolled in the Ireland within six calendar months after the execution thereof, and not court of chanin his Majesty's high court of Chancery in England.

LXX. That after the thirty-first day of December one thousand eight Repeal of the hundred and thirty-three an act passed in the seventh year of the reign statute 7 G. 4, of his late Majesty king George the Fourth, intituled An Act for repeal- c. 45, except as ing an Act passed in the thirty-ninth and fortieth years of the Reign of to proceedings his late Majesty King George the Third, intituled 'An Act for the Relief commenced beof Persons entitled to Entailed Estates to be purchased with Trust Monies,' fore 1st Jan. and for making further Provision in lieu thereof,' shall be and the same 1834. is hereby repealed, except as to such proceedings under the act hereby repealed as shall have been commenced before the first day of January one thousand eight hundred and thirty-four, and which may be continued under the authority and according to the provisions of the act hereby repealed: Provided always, that the act repealed by the said act 39 & 40 G. 3, of the seventh year of the reign of his late Majesty king George the c. 56, not to be revived. fourth shall not be revived.

LXXI. That lands to be sold, whether freehold or leasehold, or of any The previous other tenure, where the money arising from the sale thereof shall be clauses, with subject to be invested in the purchase of lands to be settled, so that any certain variaperson, if the lands were purchased, would have an estate tail therein, tions, to apply and also money subject to be invested in the purchase of lands to be to lands of any settled, so that any person, if the lands were purchased, would have an tenure to be estate tail therein, shall for all the purposes of this act be treated as the purchased lands to be purchased, and be considered subject to the same estates money is subas the lands to be purchased would, if purchased, have been actually ject to be insubject to; and all the previous clauses in this act, so far as circum-vested in the stances will admit, shall, in the case of the lands to be sold as aforesaid purchase of being either freehold or leasehold, or of any other tenure, except copy lands to be enof court roll, apply to such lands in the same manner as if the lands tailed, and also to be purchased with the money to arise from the sale thereof were to apply to directed to be freehold, and were actually purchased and settled; and money subject shall, in the case of the lands to be sold as aforesaid being held by copy to be invested of court roll, apply to such lands in the same manner as if the lands to in like manner. be purchased with the money to arise from the sale thereof were directed to be copyhold, and were actually purchased and settled; and shall, in the case of money subject to be invested in the purchase of lands to be

No. I.

so settled as aforesaid, apply to such money in the same manner as if 3 & 4 W. 4, such money were directed to be laid out in the purchase of freehold lands, and such lands were actually purchased and settled; save and except that in every case where under this clause a disposition shall be to be made of leasehold lands for years absolute or determinable, so circumstanced as aforesaid, or of money so circumstanced as aforesaid, such leasehold lands or money shall, as to the person in whose favour or for whose benefit the disposition is to be made, be treated as personal estate, and, except in case of bankruptcy, the assurance by which the disposition of such leasehold lands or money shall be effected shall be an assignment by deed, which shall have no operation under this act unless inrolled in his Majesty's high court of chancery within six calendar months after the execution thereof; and in every case of bankruptcy the disposition of such leasehold lands or money shall be made by the commissioner, and completed by inrolment in the same manner as herein-before required in regard to lands not held by copy of court roll.

Lands of any tenure in lrewhere the purchase money is subject to be invested in the purchase of lands to be entailed, and money under in Ireland, subject to be invested in like manner, to be subject to this act in cases of bankruptcy.

LXXII. That so far as regards any person adjudged a bankrupt under any such fiat as aforesaid, the provisions of the clause lastly land, to be sold, herein-before contained shall, for the benefit of the creditors of the bankrupt, apply to lands in Ireland to be sold, whether freehold or leasehold, or of any other tenure, where the money arising from the sale thereof shall be subject to be invested in the purchase of lands to be settled so that the bankrupt, if the lands were purchased, would have an estate tail therein, and also to money under the control of any court of equity in Ireland, or of or to which any individuals as trustees may be possessed or entitled in Ireland, and which shall be subject to be the control of a invested in the purchase of lands to be settled so that the bankrupt, if court of equity the lands were purchased, would have an estate tail therein, as fully and effectually as if this act had throughout extended to Ireland: Provided always, that every deed to be executed by any commissioner or protector, in pursuance of this clause, in regard to lands in Ireland to be so sold as aforesaid, shall be inrolled in his Majesty's high court of chancery in Ireland within six calendar months after the execution thereof; but every deed to be executed by any commissioner or protector, in pursuance of this clause, in regard to money subject to be invested in the purchase of lands to be so settled as aforesaid, shall be inrolled in his Majesty's high court of chancery in England within six calendar months after the execution thereof, and not in his Majesty's high court of chancery in Ireland; saving always the rights of the king's most excellent Majesty, his heirs and successors, to any reversion or remainder in the crown in lands in Ireland to be sold.

As to deeds being acknowledged before inrolment.

Every deed to involment not required.

The court of the involment of deeds, &c.

LXXIII. That any rule or practice requiring deeds to be acknowledged before involment shall not apply to any deed by this act required to be involled in his Majesty's high court of chancery in England or Ireland.

LXXIV. That every deed required to be inrolled in his Majesty's be inrolled by high court of chancery in England or Ireland, by which lands, or which lands or money subject to be invested in the purchase of lands, shall be dismoney shall be posed of under this act, shall, when inrolled as required by this act, disposed of un-operate and take effect in the same manner as it would have done if der this act, to the involment thereof had not been required, except that every such take effect as if deed shall be void against any person claiming the lands or money thereby disposed of, or any part thereof, for valuable consideration, under any subsequent deed duly inrolled under this act, if such subsequent deed shall be first inrolled.

LXXV. That it shall be lawful for his Majesty's high court of chanchancery to re- cery in England, as to deeds to be inrolled in England under this act, gulate the fees and for his Majesty's high court of chancery in Ireland, as to deeds to to be paid for be inrolled in Ireland under this act, from time to time to make such orders as the court shall think fit touching the amount of the fees and charges to be paid for the involment of such deeds, and to be paid for

searches for such deeds in the office of involments, and to be paid for copies of the involments of deeds under this act, where such copies are 3 & 4 W. 4, examined with the involments, and signed by the proper officer having

the custody of such inrolments.

LXXVI. That it shall be lawful for his Majesty's court of common The court of pleas at Westminster from time to time to make such orders as the common pleas court shall think fit touching the amount of the fees and charges to be to regulate the paid for the entries of deeds by this act required to be entered on the fees for entries court rolls of manors, and for the indorsements thereon, and for taking on court rolls the consents of the protectors of settlements of lands held by copy of and indorsecourt roll, where such consents shall not be given by deed, and for ments on deeds, taking surrenders by which dispositions shall be made under this act consents, &c. by tenants in tail of lands held by copy of court roll, and for entries of such surrenders or the memorandums thereof on the court rolls.

LXXVII. That after the thirty-first day of December one thousand A married woeight hundred and thirty-three it shall be lawful for every married man, with her woman, in every case except that of being tenant in tail, for which pro-husband's convision is already made by this act, by deed to dispose of lands of any currence, to tenure, and money subject to be invested in the purchase of lands, and dispose of lands also to dispose of, release, surrender, or extinguish any estate which and money subshe alone, or she and her husband in her right, may have in any lands vested in the of any tenure, or in any such money as aforesaid, and also to release or purchase of extinguish any power which may be vested in or limited or reserved to lands, and of her in regard to any lands of any tenure, or any such money as any estate aforesaid, or in regard to any estate in any lands of any tenure, or in therein; and to any such money as aforesaid, as fully and effectually as she could do if release and exshe were a feme sole; save and except that no such disposition, release, tinguish surrender, or extinguishment shall be valid and effectual unless the powers as a husband concur in the deed by which the same shall be effected, nor feme sole. unless the deed be acknowledged by her as herein-after directed: Provided always, That this act shall not extend to lands held by copy of Not to extend court roll of or to which a married woman, or she and her husband in to copyholds in her right, may be seised or entitled for an estate at law, in any case in certain cases. which any of the objects to be effected by this clause could before the passing of this act, have been effected by her, in concurrence with her husband, by surrender into the hands of the lord of the manor of which the lands may be parcel.

LXXVIII. Provided always, That the powers of disposition given to disposition a married woman by this act shall not interfere with any power which, given to a marindependently of this act, may be vested in or limited or reserved to ried woman by her, so as to prevent her from exercising such power in any case, except this act not to so far as by any disposition made by her under this act she may be pre-interfere with vented from so doing in consequence of such power having been any other

suspended or extinguished by such disposition.

LXXIX. That every deed to be executed by a married woman for any Every deed by of the purposes of this act, except such as may be executed by her in a married the character of protector for the sole purpose of giving her consent to woman not the disposition of a tenant in tail, shall, upon her executing the same, executed by or afterwards, be produced and acknowledged by her as her act and her as prodeed before a judge of one of the superior courts at Westminster, or a tector, to be master in chancery, or before two of the perpetual commissioners, or acknowledged two special commissioners, to be respectively appointed as herein-after by her before a judge, &c. provided.

LXXX. That such judge, master in chancery, or commissioners as The judge, &c. aforesaid, before he or they shall receive the acknowledgment by any before receiving married woman of any deed by which any disposition, release, sur-such acknowrender, or extinguishment shall be made by her under this act, shall ledgment, to examine her, apart from her husband, touching her knowledge of such examine her deed, and shall ascertain whether she freely and voluntarily consents apart from her to such deed, and unless she freely and voluntarily consent to such husband. deed shall not permit her to acknowledge the same; and in such case

The powers of

No. I.

c. 74.

As to the appointment of missioners for each county or place, and the making out and keeping of the copies.

Power of perpetual commissioners not confined to any particular place.

If, from being beyond seas, vented from making the acknowledgment, special commissioners to be appointed.

When a married woman shall acknowledge a deed, the person taking the acknowledgment to sign a memorandum to the effect here mentioned.

such deed shall, so far as relates to the execution thereof by such 3 & 4 W. 4, married woman, be void.

LXXXI. That for the purpose of providing convenient means of taking acknowledgments by married women of the deeds to be executed by them as aforesaid, the lord chief justice of the court of common pleas at Westminster shall from time to time appoint such proper persons as perpetual com he shall think fit, for every county, riding, division, soke, or place for which there may be a clerk of the peace, to be perpetual commissioners for taking such acknowledgments, and such commissioners shall be removable by and at the pleasure of the said lord chief justice; and lists of the names of such commissioners for the time being, with the lists of the com- names of their places of residence, and the counties, ridings, divisions, missioners and sokes, or places, for which they shall be respectively appointed to act, the delivery of shall from time to time be made out and be kept by the officer of the court of common pleas at Westminster with whom the certificates of the acknowledgments by married women are to be lodged as hereinafter mentioned; and such officer shall from time to time transmit, without fee or reward, to the clerk of the peace for each county, riding, division, soke, or place, or his deputy, a copy of the list to be so from time to time made out for that county, riding, division, soke, or place, and such officer shall deliver a copy, signed by him, of the list for the time being for any county, riding, division, soke, or place, to any person applying for the same; and the clerk of the peace for each county, riding, division, soke, or place, or his deputy, shall deliver a copy, signed by him, of the list last transmitted to him as aforesaid to any person applying for the same.

LXXXII. Provided always, That any person appointed commissioner for any particular county, riding, division, soke, or place, shall be competent to take the acknowledgment of any married woman wheresoever she may reside, and wheresoever the lands or money in respect of which

the acknowledgment is to be taken may be.

LXXXIII. That in those cases where, by reason of residence beyond seas, or ill-health, or any other sufficient cause, any married woman &c. a married shall be prevented from making the acknowledgment required by this woman be pre- act before a judge or a master in chancery, or any of the perpetual commissioners to be appointed as aforesaid, it shall be lawful for the court of common pleas at Westminster, or any judge of that court, to issue a commission specially appointing any persons therein named to be commissioners to take the acknowledgment by any married woman to be therein named of any such deed as aforesaid: Provided always, That every such commission shall be made returnable within such time, to be therein expressed, as the said court or judge shall think fit.

LXXXIV. That when a married woman shall acknowledge any such deed as aforesaid, the judge, master in chancery, or commissioners taking such acknowledgment shall sign a memorandum, to be indorsed on or written at the foot or in the margin of such deed, which memorandum, subject to any alteration which may from time to time be directed by the court of common pleas, shall be to the following effect;

videlicet,

'THIS deed, marked [here add some letter or other mark, for the purpose of identification,] was this day produced before me [or us] and 'and acknowledged by therein named to be her act and ' deed; previous to which acknowledgment the said 'examined by me [or us], separately and apart from her husband, 'touching her knowledge of the contents of the said deed and her con-'sent thereto, and declared the same to be freely and voluntarily exe-'cuted by her.'

and also sign a And the same judge, master in chancery, or commissioners shall also sign a certificate of the taking of such acknowledgment, to be written certificate of

'same.'

or engrossed on a separate piece of parchment; which certificate, subject to any alteration which may from time to time be directed by the 3 & 4 W. 4, court of common pleas, shall be to the following effect; videlicet,

No. I. c. 74.

the taking of

such acknow-

THESE are to certify, That on the day of in the year one thousand eight hundred and before me the undersigned Sir Nicholas Conyngham Tindal, lord chief ledgment to the 'justice of the court of common pleas at Westminster, [or before me effect here Sir James Parke knight, one of the justices of the court of king's mentioned. ' bench at Westminster; or before me the undersigned James William ' Farrer, one of the masters in ordinary of the court of chancery; or ' before us A. B. and C. D.' two of the perpetual commissioners appointed for the ' taking the acknowledgments of deeds by married women, pursuant to an act passed in the year of the reign of his Majesty king 'William the fourth, intituled An Act [insert the title of this act]; or before us the undersigned A. B. and C. D.of the commissioners specially appointed pursuant to an act passed in ' the year of the reign of his Majesty king William the fourth, intituled An Act, [insert the title of this act,] for taking the acknowledgment of any deed by the wife of the wife of appeared personally and produced a certain indenture, marked [here add the mark], bearing day of and made between date the ' [insert the names of the parties], and acknowledged the same to be her act and deed: And I [or we] do hereby certify, that the said was, at the of her acknowledging the said deed, of full age and competent understanding, and that she was examined by me [or us], 'apart from her husband, touching her knowledge of the contents of the said deed, and that she freely and voluntarily consented to the

LXXXV. That every such certificate as aforesaid of the taking of an Certificate, acknowledgment by a married woman of any such deed as aforesaid, with affidavit together with an affidavit by some person verifying the same, and the verifying the signature thereof by the party by whom the same shall purport to be same, to be signed, shall be lodged with some officer of the court of common pleas lodged with at Westminster, to be appointed as herein-after mentioned; and such some officer of officer shall examine the certificate, and see that it is duly signed, either court of common pleas, by some judge or master in chancery, or by two commissioners ap-who shalf pointed pursuant to this act, and duly verified by affidavit as aforesaid, cause the same and shall also see that it contains such statement of particulars as to to be filed of rethe consent of the married woman as shall from time to time be required cord in the in that behalf; and if all the requisites in this act in regard to the cer-court. tificate shall have been complied with, then such officer shall cause the said certificate and the affidavit to be filed of record in the said court of common pleas.

LXXXVI. That when the certificate of the acknowledgment of a deed On filing certiby a married woman shall be so filed of record as aforesaid, the deed so ficate, the deed, acknowledged shall, so far as regards the disposition, release, surrender, by relation, to or extinguishment thereby made by any married woman whose acknow- take effect from ledgment shall be so certified concerning any lands or money com- time of acknowprised in such deed, take effect from the time of its being acknowledged, ledgement. and the subsequent filing of such certificate as aforesaid shall have relation to such acknowledgment.

LXXXVII. That the officer of the court of common pleas with whom The officer with such certificates as aforesaid shall be lodged shall make and keep an whom the cerindex of the same, and such index shall contain the names of the mar-tificates are ried women and their husbands alphabetically arranged, and the dates lodged to make of such certificates and of the deeds to which the same shall respectively an index of the relate, and such other particulars as shall be found convenient; and same.

every such certificate shall be entered in the index as soon as may be 3 & 4 W. 4, after such certificate shall have been filed.

LXXXVIII. That after the filing of any such certificate as aforesaid the officer with whom the certificate shall be lodged shall at any time Officer to deli- deliver a copy, signed by him, of any such certificate to any person applying for such copy; and every such copy shall be received as ver a copy of certificate filed, evidence of the acknowledgment of the deed to which such certificate which shall be shall refer. evidence.

officer with whom the certhe court to make orders touching the examination, certificates, affidavits, &c.

LXXXIX. That the lord chief justice of the court of common pleas at Chief justice of Westminster shall from time to time appoint the person who shall be common pleas the officer with whom such certificates as aforesaid shall for the time to appoint the being be lodged, and may remove him at pleasure; and the court of common pleas at Westminster shall also from time to time make such orders and regulations (1) as the court shall think fit touching the mode be lodged; and of examination to be pursued by the commissioners to be appointed under this act, and touching the particular matters to be mentioned in such memorandums and certificates as aforesaid, and the affidavits verifying the certificates, and the time within which any of the aforesaid proceedings shall take place, and touching the amount of the fees or memorandums, charges to be paid for the copies to be delivered by the clerks of the peace or their deputies, or by the officer of the said court, as hereinbefore directed, and also of the fees or charges to be paid for taking acknowledgments of deeds and for examining married women, and for the proceedings, matters, and things required by this act to be had, done, and executed for completing and giving effect to such acknowledgments and examinations. (2)

A married woman to be separately examined on the surrender of an equitable estate in copyholds as if such estate were legal.

XC. That in every case in which a husband and wife shall, either in or out of court, surrender into the hands of the lord of a manor any lands held by copy of court roll, parcel of the manor, and in which she alone, or she and her husband in her right, may have an equitable estate, the wife shall, upon such surrender being made, be separately examined by the person taking the surrender in the same manner as she would have been if the estate to which she alone, or she and her husband in her right, may be entitled in such lands were an estate at law instead of a mere estate in equity; and every such surrender, when such examination shall be taken, shall be binding on the married woman and all persons claiming under her; and all surrenders heretofore made of lands similarly circumstanced, where the wife shall have been separately examined by the person taking the surrender, are hereby declared to be good and valid.

Court of common pleas in the case of a husband being lunatic, &c. may dispense with his concurrence, except where the intrusted with

XCI. Provided always, That if a husband shall in consequence of being a lunatic, idiot, or of unsound mind, and whether he shall have been found such by inquisition or not, or shall from any other cause be incapable of executing a deed, or of making a surrender of lands held by copy of court roll, or if his residence shall not be known, or he shall be in prison, or shall be living apart from his wife, either by mutual consent or by sentence of divorce, or in consequence of his being transported beyond the seas, or from any other cause whatsoever, it shall be lawful for the court of common pleas at Westminster, by an order to be lord chancellor or the court of common pleas at Westminster, by an order to be or other persons made in a summary way upon the application of the wife, and upon such evidence as to the said court shall seem meet, to dispense with the lunatics, or the concurrence of the husband in any case in which his concurrence is court of chan- required by this act or otherwise; and all acts, deeds, or surrenders to cery, shall be be done, executed, or made by the wife in pursuance of such order, in the protector of regard to lands of any tenure, or in regard to money subject to be

(1) See the rules at the end of the act.

⁽²⁾ Mr. Thomas Sherwood, of the Prothonotaries' Office, Tanfield-court, Temple, has been appointed the officer with and by whom the certificates of the acknowledgment of married women are to be lodged and filed.

invested in the purchase of lands, shall be done, executed, or made by her in the same manner as if she were a feme sole, and when done, exe- 3 & 4 W.4, cuted, or made by her shall (but without prejudice to the rights of the husband as then existing independently of this act) be as good and valid as they would have been if the husband had concurred: Provided a settlement in always, That this clause shall not extend to the case of a married lieu of the woman where under this act the lord high chancellor, lord keeper or husband. lords commissioners for the custody of the great seal, or other the person or persons intrusted with the care and commitment of the custody of the persons and estates of persons found lunatic, idiot, and of unsound mind, or his Majesty's high court of chancery, shall be the protector of a settlement in lieu of her husband.

XCII. That this act shall not extend to Ireland, except where the Ireland. same is expressly mentioned. (1)

Special orders were made by the judges of the common pleas in pursuance of the above act in Michaelmas term 1833, but were revoked and superseded by the following rules of Hilary term 1834:—

WHEREAS it has been found expedient to make alterations in the general rules made in Michaelmas term last by this court, for the purpose of carrying into effect the statute passed in the third and fourth years of the reign of his present Majesty, cap. 74, intituled An Act for the Abolition of Fines and Recoveries, and for the substitution of more simple modes of Assurance.

And whereas it is necessary to make orders touching the amount of the reasonable fees and charges to be taken by the several persons appointed to carry the powers of the said act into execution; and it will be convenient that all the orders and regulations made by the court under the said act should be contained in the same rule:

Now it is hereby ordered, That the said general rules be and the same are hereby revoked: Provided that this present rule shall not be construed in any respect to invalidate any proceedings which before the first day of March next ensuing, shall have been taken pursuant to the direction of the said rules of Michaelmas term last.

And it is hereby further ordered, That where any acknowledgment shall be made by any married woman of any deed under and by virtue of the said act, before commissioners appointed under the said act, one at least of the said commissioners shall be a person who is not in any manner interested in the transaction giving occasion for such acknowledgment or concerned therein, as attorney, solicitor, or agent, or as clerk to any attorney, solicitor, or agent so interested or concerned.

And it is further ordered, That before the commissioners shall receive such acknowledgment, they or in case one of them shall be interested or concerned as aforesaid, then such one of them as shall not be so interested or concerned do inquire of every married woman separately and apart from her husband, and from the attorney or solicitor concerned in the transaction, whether she intends to give up her interest in the estate to be passed by such deed, without having any provision made for her in lieu of, or in return for, or in consequence of her so giving up such interest; and where such married woman in answer to such inquiry shall declare that she intends to give up such her interest without any provision, and the said commissioners shall have no reason to doubt the truth of such declaration and shall verily believe the same to be true, then they shall proceed to receive the said acknowledgment; but if it shall appear to them or to such one of them as aforesaid, that

⁽¹⁾ By the 4 & 5 W. IV. c. 92, the provisions of this act have been extended to Ireland, with the omission of sections 4, 5, and 6, relating to lands held by ancient demesne, and sections 51, 52, 53, 54, 66, 76, and 90, relating to copyholds.

No. I. c. 74.

it is intended that provision is to be made for any such married woman, 3 & 4 W. 4, then the commissioners shall not take her acknowledgment until they are satisfied that such provision has been actually made by some deed, or writing produced to them, or if such provision shall not have been actually made before, then the commissioners shall require the terms of such intended provision to be shortly reduced into writing, and shall verify the same by their signatures in the margin, at the foot, or at the back thereof.

> And it is hereby further ordered. That the affidavit verifying the certificate to be made pursuant to the said act, and which certificate shall be in the form contained in the said act shall (except in such cases where the acknowledgment shall be taken elsewhere than in England, Wales or Berwick-upon-Tweed) be made by some practising attorney or solicitor of one of the courts at Westminster, or of one of the counties palatine of Lancaster or Durham, and that in all cases it shall be deposed in addition to the verification of the said certificate, that the deponent (or if more than one person join in the affidavit), that one or more of the deponents knew the person or persons making such acknowledgment: and that at the time of making such acknowledgment, the person or persons making the same was or were of full age and competent understanding; and that one at least of the commissioners taking such acknowledgment, to the best of his deponent's knowledge and belief, is not in any manner interested in the transaction giving occasion for the taking of such acknowledgment, or concerned therein, as attorney, solicitor or agent, or as clerk to any attorney, solicitor or agent so interested or concerned; and that the names and residences of the said commissioners, and also the place or places where such acknowledgment or acknowledgments shall be taken, shall be set forth in such affidavit: And that previously to such acknowledgment being taken, the deponent had inquired of such married woman (or if more than one of each of such married women), whether she intended to give up her interest in the estate to be passed? and also the answer given thereto; and where any such married woman in answer to such inquiry shall declare that she intends to give up her interest without any provision, the deponent shall state that he has no reason to doubt the truth of such declaration, and he verily believes the same to be true. And where any provision has been agreed to be made, the deponent shall state that the same has been made by deed or writing, or if not actually made before, that the terms of the intended provision have been reduced into writing, which deed or writing he verily believes has been produced to the said (judge) (master, or) commissioners.

> And it is hereby further ordered, That the affidavit shall state the parish or several parishes, or place or several places, and the county or counties in which the several premises wherein any such married woman shall appear to be interested shall by deed be described to be situate.

> And it is hereby further ordered, That the affidavit shall be in the form hereunto annexed, subject to such variations as the circumstances of the case shall render necessary, or such affidavit may be made where it is found convenient by one of the said commissioners, with such variation in the form thereof as shall be necessary in that behalf.

> And it is hereby further ordered, that the certificates and affidavits verifying the same shall, within one month from the making the acknowledgment, be delivered to the proper officer appointed under the said act; and that the officer shall not after that time receive the same without the direction of the court or a judge.

> And it is hereby further ordered, That the fees or charges to be paid for the copies to be delivered by the clerks of the peace, or their deputies, or by the officer of the said court, and for taking acknowledgments of deeds, and for examining married women, and for the proceedings, matters and things required by the said act to be had, done,

and executed, for completing and giving effect to such ack ments and examinations, shall be as follows:	_			3 & 4 W.
To a judge or master for taking the acknowledgment of every married woman, of which 7s. 6d. will be paid in the case of a judge, to his clerk, and the residue thereof will be paid over to the treasury; and in the case of a master, the whole will be paid over to the treasury, or the fee fund account of the	•			c. 74.
To the two perpetual commissioners for taking the acknowledgment of every married woman, when not required to go further than a mile from their residence, being 13s. 4d. for	•	6	8	
each commissioner	1	6	8	
travelling expenses To each commissioner, where the distance required shall exceed three miles, besides his reasonable travelling ex-	1	1	0	
		2	0	
To the clerk of the peace, or his deputy, for every search To the same, for every copy of a list of commissioners, pro-	0	1	0	
vided such list shall not exceed the number of 100 names To the same, for every further complete number of 50 names,		5	0	
an additional		2	6	
To the officer, for every search		1	0	
To the same, for every official copy of the certificate		2	6	
To the same, for every further complete number of 50 names	0	5	0	
additional			6	
judge for the fiat To the same, for examining the certificate and affidavit, and filing and indexing the same, as required by the said act of		15	0	
the 3rd and 4th William 4, cap 74				
And it is hereby further ordered, that the fees and charges to for the entries of deeds, required by the said act to be entered court rolls of manors, and for the indorsements thereon, and for the consents of the protectors of settlements of land held be court roll, where such consents shall not be given by deed taking surrenders, by which dispositions shall be made under act, by tenants in tail of lands held by copy of court roll, and for such surrenders, or the memorandums thereof, on the consents.	ed or	on taki opy nd e sa entr	the ng of for aid ies	
shall be as follows:—		8.	-	
For the indorsements on the deed of the memorandum of pro- duction, and memorandum of entry on court rolls, to be signed by the lord steward or deputy steward, each indorse-		5.	u.	
ment of memorandum 5s., together	0			
ments thereon, at per folio of 72 words				
For taking the consent of each protector of settlement of lands	0	13	4	
For taking the surrender by each tenant in tail of lands For entries of such surrenders, or the memorandums thereof,	0			
on the court rolls, at per folio of 72 words		0	6	
N. C. Tinda J. A. Park. J. B. Bosan		P T		
E. H. ALDE				

No. I. 3 & 4 W. 4, c. 74.

FORM OF AFFIDAVIT verifying the certificate of acknowledgment taken in pursuance of the act of parliament to be made by some practising attorney or solicitor, and to be sworn before a judge of the court of common pleas, or a commissioner appointed for taking affidavits in the said court.

In the common pleas—

A. B. of in the gentleman, one of the attornies [or solicitors] of the court maketh oath and saith that he knows the wife of in the certificate hereunto annexed mentioned, and that the acknowledgment therein mentioned was made by the said and the certificate signed by the judge or master, or by A. B. of &c. and C. D. of &c. the commissioners in the said certificate mentioned, on the day and year therein menin the in the presence of this deponent, and that at the time of making such acknowledgment the said of full age and competent understanding, and that the said knew the said acknowledgment was intended to pass her estate in the premises, respecting which such acknowledgment was made. [And this deponent further saith, that to the best of this deponent's knowledge and belief, This is to be neither of the said commissioners is (or the said A. B. or the said C. D. one of the said commissioners is not) in any manner interested in the transaction giving occasion for such acknowacknowledg-ledgment, or concerned therein as attorney, solicitor, or agent, or as clerk to any attorney, solicitor, or agent, so interested or concerned.] And this deponent further saith, that previous to the said the married woman making the said acknowledgment, he this deponent inquired of the said the married woman or if more than one, of each of them the said the married women whether she intended to give up her interest in the estates, in respect of which such acknowledgment was taken without having any provision made for her in lieu of or in return for, or in consequence of her so giving up her interest in such estates, and the that in answer to such inquiry the said married woman] declared that she did intend to give up her interest in the said estates without having any provision made for her in lieu of, or in return for, or in consequence of her so giving up such her interest; of which declaration of the said [the married woman] this deponent has no reason to doubt the truth, and verily believes the same to be true, or declared that a provision was to be made for her in consequence of her giving up such her interest in the said estates. And this deponent lastly saith, that before her acknowledgment was so taken, he was satisfied, and does now verily believe that such provision has been made by deed or writing, or that the terms thereof have been reduced into writing, and that such deed or writing has been produced to the said judge, master, or And lastly this deponent saith, that it commissioners. appears by the deed acknowledged by the said

[the married woman] that the premises wherein she is stated to be interested are described to be in the parish or place or parishes or places of

in the county of

or counties

[as the case may be].

of

omitted

ment taken

by a judge

or master.

when

N. B. When the whole of the facts cannot be spoken to by one deponent, variations may be made to enable more than one deponent to state 5 & 6 W. their respective parts of the affidavit.

c. 74.

No. I.

The following additional rules were made in Trinity term 1834:

"It is ordered, That from and after the last day of this term, where such parts of the affidavit, verifying the certificate of acknowledgment, taken in pursuance of the late act of parliament respecting fines and recoveries, as state the deponent's knowledge of the party making the acknowledgment, and her being of full age, cannot be deposed by a commissioner, or by an attorney or solicitor, the same may be deposed to by some other person, whom the person before whom the affidavit shall be made shall consider competent so to do.

"And it is further ordered, That where more than one married woman shall at the same time acknowledge the same deed respecting the same property, the fees directed by the said rules to be taken, shall be

taken for the first acknowledgment only.

"And the fees to be taken for the other acknowledgment or acknowledgments, how many soever the same may be, shall be one half of the original fees, and so also where the same married woman shall at the same time acknowledge more than one deed respecting the same property.

"And where, in either of the above cases, there shall be more than one acknowledgment, all such acknowledgments may be included in one

certificate and affidavit.

"In every case the acknowledgment of a lease and release shall be considered and paid for as one acknowledgment only."

PART II.

CLASS XI.

WILLS.

[In 1833, the real property commissioners made a report upon the subject of wills, to which they appended a variety of propositions, one of their principal objects being the reduction of the law to a uniform standard with respect to the execution and time of operation of wills of real and personal estate. A bill founded upon their report passed the House of Commons during the last year, and it will, in all probability, be again brought forward in the ensuing session.

For the act disposing of the residues of the personal estates of testators not bequeathed by their wills, see Part III., Class XIII. Executors.]

PART II.

CLASS XII.

LAND REVENUE OF THE CROWN.

[No. I.] 1 & 2 W. IV. c. 5.—An Act to enable his Majesty to make Leases, Copies, and Grants of Offices, Lands, and Hereditaments, Parcel of the Duchy of Cornwall, or annexed [30th July 1831.] to the same.

WHEREAS his most excellent Majesty now stands seised of the duchy of Cornwall and the possessions thereof: And whereas some doubts may arise in relation to his Majesty's making of leases and grants of offices, lands, and hereditaments, parcel of his said duchy, or thereunto annexed or belonging: For obviating whereof, and for the ease and quiet of the minds of such persons as have taken or shall hereafter take leases from his said most excellent Majesty, and to the end that such persons may be sure to have good and indefeasible estates, and be encouraged to lay out monies in building and repairing or otherwise improving the several lands and tenements to them demised or to be demised; be it therefore enacted, That during such time as the said duchy of Cornwall shall remain vested in his Majesty, it shall and may be lawful for his Majesty, from time to time, by warrant under his sign manual, to be counter-signed by any three or more of the commissioners of his Majesty's treasury of the United Kingdom of Great Britain and Ireland, to authorize such and so many of the regular officers of the in the duchy of said duchy, who by virtue of their several appointments and offices are concerned in the general superintendence and management of the revenues and affairs of the said duchy, being not more than five and not less than three in number, as his Majesty may think fit, to demise or lease, in his Majesty's name and on his Majesty's behalf, by deed under the hands and seals of any two or more of them, all and every the manors, messuages, parks, tenements, lands, and hereditaments, parcels of the possessions of the said duchy of Cornwall, or annexed to the same, provided that the lessee or lessees in such leases respectively to be named do and shall duly execute a counterpart or counterparts of the lease or leases so to be made to him, her, or them respectively; and also to constitute and appoint, in his Majesty's name and on his Majesty's behalf, by deed or other instrument executed by any two or more of them, all such persons as shall be specially named by his Majesty to be stewards, commissioners for assessing the ancient duchy lands and tenements, or other officers of the said duchy, during his Majesty's pleasure, and also to pass the accounts of all receivers, bailiffs. and collectors accounting for the revenues of the said duchy; and all such leases or grants so made or to be made of any manors, messuages. parks, tenements, lands, or hereditaments, by virtue of such warrant, shall be good and effectual in law, according to the purport and contents thereof, against our sovereign lord the king, his heirs and successors, and against all and every other person or persons that shall at any time hereafter have, inherit, or enjoy the said duchy, by force of any act of parliament, or by other limitations whatsoever: Provided always that every such lease or grant so made or to be made of any manors, messuages, parks, tenements, lands, or hereditaments, in pos-

His Majesty may authorize certain persons to grant leases, &c. of lands and execute appointments Cornwall.

Terms of leases.

session, be and shall be made for three lives or fewer, or for thirty-one years or under, or for some term of years determinable upon one, two 1 & 2 W. 4, or three lives, and not above; and if any such lease or grant be made in reversion or expectancy, that then the same, together with the estates in possession, do not exceed three lives or the term of thirty-one years, and be not in any wise dispunishable of waste; and so as upon every such lease or grant there be or shall be reserved the ancient or most usual rent or more, or such rent as hath been reserved, yielded, or paid for such of the premises as are or shall be contained therein for the greater part of twenty years next before the making of the said leases or grants, and shall be reserved, due, and payable to such as have the inheritance or other estate of the said duchy; and where no such rent hath been reserved or payable, that then upon every such lease or grant there be or shall be reserved a reasonable rent not being under the twentieth part of the clear yearly value of the manors, messuages, parks, tenements, lands, or hereditaments contained in such lease or grant.

II. And whereas certain parts of the said duchy are capable of considerable improvement, by the erection of substantial buildings thereon, and by the cultivation of waste lands, which cannot be undertaken Leases may be by the lessees unless they are secured by the longer interest in the pre-granted for mises than thirty-one years, or a term of years determinable upon three building, or imlives: be it further enacted, That it shall be lawful for the said officers proving wastes. of the said duchy to be named in his Majesty's said warrant, and they are hereby empowered, by deed under the hands and seals of any two or more of them, to demise, lease, or grant any lands, tenements, or hereditaments, parcel of the possessions of the said duchy of Cornwall, or annexed to the same, for any term of years not exceeding the term of ninety-nine years, expressly for the purpose of improving the same by erecting substantial buildings thereon, or for the purpose of improving waste lands by cultivation or otherwise; provided that the lessee or lessees in such leases or grants respectively to be named do and shall duly execute a counterpart or counterparts of the lease or leases so to be made to him, her, or them respectively; and further provided, that upon all such leases or grants so to be made improved annual groundrents be reserved and made payable, and that in all such cases of leases or grants so to be made for terms exceeding thirty-one years, or exceeding the usual term determinable upon three lives, no fines or other consideration be taken, further or other than the improved annual groundrents hereby directed to be reserved as aforesaid.

III. Provided always, That the terms and conditions of all leases and Leases to be grants to be granted or made under the provisions of this act shall be previously appreviously approved by the commissioners of his Majesty's treasury, proved by the or any three or more of them.

IV. That all covenants, conditions, reservations, and agreements Covenants to contained in every such lease or grant made or to be made as aforesaid be effectual in shall be good and effectual in law according to the words and intent of law according the same, as well for and against them to whom the reversion of the to their consaid manors, messuages, parks, tenements, lands, or hereditaments shall tents. come as for and against them to whom the interest of such leases or grants shall come respectively, as if our sovereign lord the king's Majesty's, at the time of making such covenants, conditions, reservations, and agreements, had been or were seised of an absolute estate in fee simple in the same manors, messuages, parks, tenements, lands, or hereditaments.

V. Saving always to all and every person and persons, bodies politic and corporate, their heirs and successors, executors administrators, and assigns, (other than his said Majesty, his heirs and successors and other General saving. than the duke and dukes of Cornwall for the time being, and his and their heirs, their lessees, and all and every other person and persons that shall hereafter have, inherit, and enjoy the said duchy of Cornwall, by force of any act of parliament or other limitation whatsoever,) all such rights, titles, estates, customs, interests, tenures, terms, claims, and

No. I. c. 5.

treasury.

No. I.

demands whatsoever, of what nature, kind, or quality soever, of, in, 1 & 2 W. 4, to, or out of the said manors, offices, messuages, parks, tenements, lands, or hereditaments, or any of them, parcel of or annexed to the said duchy of Cornwall, as they or any of them had or ought to have had before the making of this act, to all intents and purposes, and in as large and ample manner and form, as if this act had never been made; this act, or any other thing therein contained, to the contrary notwithstanding.

> No. II.] 1 & 2 W. IV. c. 12.—An Act for ascertaining the Boundaries of the Forest of Dean, and for inquiring into the Rights and privileges claimed by Free Miners of the Hundred of Saint Briavel's, and for other Purposes. (1)

> > 2nd August 1831.]

WHEREAS the boundaries of his Majesty's forest of Dean in the county of Gloucester, and of the lands of his Majesty's subjects within the same, are in some parts disputed, and in other parts not clearly ascertained and distinguished; and purprestures, encroachments, and trespasses to a great extent have been made on the soil of his Majesty within the said forest; and certain persons born within the hundred of Saint Briavel's, within the boundaries of the said forest, calling themselves free miners, claim certain rights and privileges in all lands and grounds lying within the perambulation and regard of the said forest and lands adjoining thereto, other than certain inclosures for the time they shall continue inclosed, the existence, origin, and particulars of which rights and privileges have never been sufficiently inquired into by any person or persons having competent powers to carry on such inquiry, and are not clearly ascertained and defined: And whereas it is desirable that the constitution, powers, jurisdiction, and practice of a court called the Mine Law Court, and also of a court called Saint Briavel's Court, and the management of the prison belonging to the same court, should be inquired into and ascertained; and it is also desirable that the expediency of erecting into a parish or parishes, or uniting to some existing parish or parishes, the said forest of Dean, and the lands lying within the perambulation and regard of the said forest, or such parts thereof respectively as are extra-parochial, should be inquired into and ascertained: Be it therefore enacted, &c. That it shall be lawful for his Majesty to issue or cause to be issued one or more commission or commissions, under the great seal of Great Britain, or under the seal of his Majesty's court of exchequer at Westminster, and thereby to appoint commissions for the purposes of this act, and to authorize and empower the said commissioners so to be appointed, or any two of them, to inquire of, ascertain, and distinguish, in manner herein-after mentioned, the boundaries of the said forest called the forest of Dean, and of the lands of his Majesty's subjects within the same; and to inquire of the purprestures, encroachments, and trespasses on the soil of his Majesty within the boundaries of the said forest; and also to inquire, in manner herein-after mentioned, of the existence, origin, and particulars of the rights and privileges claimed by the persons born within the hundred of Saint Briavel's aforesaid, calling themselves free miners; and the said commissioners, or any two of them, shall and may and they are hereby authorized and empowered to meet at such time and at such place within the said county of Gloucester as they or any two of them shall appoint, and then and there, by the testimony of witnesses upon oath (which oath any one of the said commis-

His Majesty may appoint commissioners of inquiry.

No. 11. c. 12.

sioners is hereby empowered to administer), and by the inspection and examination of records, deeds, and writings, or by any other legal proof 1 & 2 W. 4, or evidence, to inquire of and ascertain the boundaries of the said forest, and of the lands and grounds belonging to his Majesty within the same, and the boundaries between lands belonging to his Majesty and lands of any of his Majesty's subjects; and in like manner to inquire of and examine all claims or titles that shall or may be made to any lands, tenements, or hereditaments which shall be claimed on behalf of his Majesty, as purprestures, encroachments, or trespasses in or upon the soil of his Majesty within the said forest; and also to receive and deliberate upon offers and proposals for compromising or settling any disputes between his Majesty and any other person or persons, touching the boundaries of the said forest, or of any lands or tenements claimed by any of his Majesty's subjects within the same, or touching any right, title or interest claimed by any of his Majesty's subjects to or in any such lands or tenements; and also to carry on and prosecute all such other inquiries as shall enable the said commissioners from time to time to make reports touching the premises, in manner herein-after mentioned; and in like manner to inquire of the origin of the rights and privileges claimed by the persons calling themselves free miners as aforesaid, and to inquire what qualifications, as to birth, occupation, or otherwise, are necessary to entitle any person to such rights and privileges, and of the nature and particulars of the said rights and privileges as now exercised, and also over what lands within the said forest or elsewhere such rights and privileges extend or are exercised, and of the variations (if any) in the manner in which such rights and privileges have at different times been exercised, and of any former proceedings at law or in equity which in the opinion of the said commissioners shall tend to ascertain the said rights and privileges, and of all such other matters and things as in the opinion of the said commissioners shall enable them to make one or more report or reports touching the said rights and privileges, in manner herein-after mentioned; and in like manner to inquire into the local limits within which the jurisdiction of the said court called the Mine Law Court and also of the said court called Saint Briavel's Court respectively exist, the nature of the suits which it is competent for the said courts respectively to entertain, and the nature and number of the suits which are usually brought in the said courts, the process by which the orders and decrees of the said respective courts are enforced, the expence of proceedings in the said courts, also into all other matters and things necessary for ascertaining the constitution, powers, jurisdiction, and practice of the said respective courts; and in like manner to inquire into the condition, as to repairs or otherwise, of the prison belonging to the said court called Saint Briavel's Court, and the treatment of and provision for persons confined in the same prison, and the general management and conduct thereof; and in like manner to inquire into the expediency of erecting and forming into one or more parish or parishes, or uniting to or consolidating with any adjoining or other existing parish or parishes, the said forest of Dean, and the lands lying within the perambulation and regard of the said forest, or such parts of the said forest and lands respectively as are extra-parochial.

II. That it shall be lawful for the lord high treasurer or the commis- Treasury may sioners of his Majesty's treasury of the United Kingdom of Great Bri-order 500l. to tain and Ireland, or any three or more of them, to order and direct such be paid to one sum or sums of money as they in their discretion may think fit to be issued and paid out of the woods and forests revenues to any one of the cuting this act, commissioners appointed to carry this act into execution, as a remuneating for the commissioners appointed to carry this act into execution, as a remuneating for the commissioners appointed to carry this act into execution, as a remuneating for the commissioners appointed to carry this act into execution, as a remuneating for the commissioners appointed to carry this act into execution, as a remuneating for the commissioners appointed to carry this act into execution, as a remuneating for the commissioners appointed to carry this act into execution, as a remuneating for the commissioners appointed to carry this act into execution, as a remuneating for the commissioners appointed to carry this act into execution, as a remuneating for the commissioners appointed to carry this act into execution, as a remuneating for the commissioners appointed to carry this act into execution, as a remuneating for the commissioners appointed to carry this act into execution, as a remuneating for the commissioners appointed to carry this act into execution. ration for his services therein, provided such sums shall not exceed five expences, out hundred pounds in any one year, and of any additional sum or sums of the woods of money to defray the expences incurred by the said commissioners and forests rein the execution of this act, such sum not exceeding three hundred venues. pounds, to be paid out of the woods and forests revenues: Provided

No. II. c. 12.

to take an oath.

always, that no more than one of the commissioners to be appointed 1 & 2 W. 4, under this act shall receive any pay or remuneration for his trouble in carrying the provisions of this act into effect.

III. That the said commissioners before they shall be capable of Commissioners acting in the execution of this act shall severally take and subscribe an oath before a justice of the peace for the county of Gloucester, or before one of the said commissioners (having first taken the said oath), to the effect following; that is to say,

> ' I A. B. do swear, That I will faithfully, impartially, and honestly, according to the best of my skill and judgment, execute the several ' powers reposed in me by an act of the second year of the reign of his 'Majesty king William the fourth, intituled An Act for ascertaining the ' Boundaries of the Forest of Dean, and for inquiring into the Rights and ' Privileges claimed by Free Miners of the Hundred of Saint Briavel's, and 'for other purposes, according to the tenor and purport of the said act. So help me GOD.

Commissioners may call persons to give evidence or produce records, &c.

IV. That it shall be lawful for the said commissioners to call before them, at one of their public meetings, any person, (including any judge, steward, or officer of the said court called Saint Briavel's Court, and any gaoler or other officer of the said prison), either to give evidence or to produce any records of the said court, or any other records or other documents in his possession or custody, not relating to his private estate, or to the private estate of any other person or persons, and which the said commissioners shall think necessary or proper to be examined for the purposes of any of the inquiries directed by this act or by the said commission or commissions; and any person (being duly summoned) refusing or omitting to appear or to give evidence, or to produce such records or documents, without reasonable excuse for such refusal or omission, shall forfeit any sum not exceeding ten pounds nor less than forty shillings, to be recovered and applied in manner herein-after mentioned.

Public notice to be given of meetings.

V. And to the intent that no person may have any just cause or pretence for not appearing before the said commissioners at their meetings commissioners' to be held for the purpose of carrying this act into execution, be it further enacted, That the said commissioners shall give public notice of the time and place of every intended meeting, by publication of such notice fourteen days at least before such meeting in the London Gazette and in one of the public newspapers published in the said county of Gloucester, when and where any person having any rights or claims within the said forest may be at liberty to lay the same before the said commissioners: Provided always, That the said commissioners, or any one of them, shall and may from time to time adjourn their meeting to any future day, and to any place within the counties of Gloucester, Hereford, or Monmouth, without giving any public notice thereof in any newspaper: Provided always, That every place of meeting shall be within twelve miles of the boundary of the forest of Dean.

Meetings may be appointed by any two commissioners.

VI. That any two of the said commissioners so to be appointed as aforesaid shall have full power and authority to appoint and hold meetings for the purpose of carrying this act into execution; and that at all meetings of the said commissioners under the authority of this act, or the said commission or commissions, the major part of the commissioners then present shall have full power and authority to do, exercise, and perform all such acts, powers, and authorities, matters and things, as in and by this act, or the said commission or commissions to be issued in pursuance thereof, are or shall be directed, authorized, or empowered to be done, exercised, or performed by the said commissioners.

Proceedings of commissioners to be entered in books.

VII. That the said commissioners acting under the said commission shall be and they are hereby required to cause all their inquiries, examinations, and proceedings under this act to be fairly entered in books to be kept for that purpose, one book or set of books being appropriated

to the inquiries, examinations, and proceedings relating to the rights and privileges claimed by the persons calling themselves free miners as 1 & 2 W.4, aforesaid, and another book or set of books being appropriated to the other inquiries, examinations, and proceedings under this act; all which books, duly signed and certified by the said commissioners or any two of them, shall be returned into the office of the commissioners of his Majesty's woods, forests, and land revenues, there to remain and be kept.

No. II. c. 12.

VIII. That all pecuniary penalties and fines imposed by this act shall Recovery of and may be recovered in a summary way before any justice or justices penalties. of the peace for the county of Gloucester, or for any county, riding, division, or place in which the person having incurred the same shall happen to be; and in case any penalty or fine recovered before any justice or justices of the peace in pursuance of this act shall not be paid forthwith, it shall be lawful for the justice or justices by whom such fine shall be set or imposed, or before whom such penalty shall be recovered, by warrant under his hand and seal or their hands and seals, and directed by such justice or justices to any constable or other peace officer, to cause such fine or penalty to be levied by distress and sale of the offender's goods and chattels, together with all costs and charges attending such distress and sale; and in case no sufficient distress can be had or made, such justice or justices shall, if he or they shall think proper, commit the offender to the common gaol for or some house of correction within the said county of Gloucester, or for such other county, riding, division, city, town, or place as aforesaid, there to remain without bail or mainprize for any space not exceeding two calendar months.

IX. That if any action or suit shall be brought or commenced against Limitation of any person or persons, for any thing by him, her, or them done or actions. executed in pursuance of this act, or for any cause, matter, or thing herein contained, such action or suit shall be commenced within three calendar months next after the matter or thing done, and shall be laid in the proper county, and the defendant or defendants in such action may plead the general issue, and give the special matter in evidence, for his or their defence; and if upon trial a verdict shall pass for the defendant or defendants, or the plaintiff or plaintiffs become nonsuited, or discontinue his, her, or their action or prosecution, or judgment shall be given against him, her, or them upon demurrer or otherwise, then such defendant or defendants shall have treble costs awarded to him or them against such plaintiff or plaintiffs.

X. That all penalties recovered and all fines imposed by virtue or in Application of pursuance of this act shall be, by the justice or justices receiving the penalties. same, forthwith paid over or transmitted to the under steward of the said forest of Dean, to be applied in defraying the expenses attending the execution of this act or any other laws concerning the said forest.

XI. That it shall and may be lawful for the said commissioners, or Commissioners any two of them, and they are hereby required, from time to time and to report to the in such manner and form as shall be in that behalf specified in any such treasury recommission or commissions as aforesaid, to report to the lord high specting the commission or commissions as aloresaid, to report to the lord high boundaries of treasurer or the lords commissioners of his Majesty's treasury the boundaries of the said forest, and of the lands of his Majesty's subjects several rights within the same, so far as the said commissioners shall be able to claimed thereascertain the same; and also to report what rights and interests the in, and other persons occupying or claiming to be interested in lands or tenements matters relatwithin the bounds of the said forest have or claim therein, and the ing thereto. origin or alleged origin of such rights and interests, whether by grant, custom, or otherwise, in all cases in which it shall not clearly appear to the said commissioners that a good title to such rights and interests can be established against the crown, including in such report the particulars of the rights and interests of persons claiming to be owners of or to have a right to open or work quarries, and the origin, whether by grant, custom, or otherwise, of such last-mentioned rights and interests

No. II. 1 & 2 W. 4, c. 12.

(save and except as to the rights and privileges claimed by the persons calling themselves free miners as aforesaid, which rights and privileges are to be made the subject of one or more separate report or reports, as herein-after mentioned); and also to report the dates, value, and other particulars of all other purprestures, encroachments, and trespasses in and upon the soil of his Majesty within the said forest, in all cases in which it shall not clearly appear to the said commissioners that a good title can be established against the crown; and also to report such proposals as the said commissioners shall think it expedient to state, from persons claiming against his Majesty, for compromising disputes relating to boundaries, or for the disposition or application of timber or other trees or wood, and to state the opinion of the said commissioners as to the expediency of accepting any such proposals as aforesaid; and also to report all such other matters relating to the property of the crown in the said forest, or any disputes relating thereto, as in carrying on the inquiries directed by this act it shall seem to the said commissioners expedient to state, and also the opinion of the said commissioners as to the best manner of settling such disputes; and also to report the local limits within which the jurisdiction of the said court called the mine law court and also of the said court called Saint Briavel's court respectively exist, the nature of the suits which it is competent for the said courts respectively to entertain, the nature and number of the suits which are usually brought in the said courts, the process by which the orders and decrees of the said respective courts are enforced, the expence of proceedings in the said courts, and all other matters and things necessary for showing the constitution, powers, jurisdiction, and practice of the said courts respectively; and also to report the condition, as to repairs and otherwise, of the prison belonging to the said court called Saint Briavel's court, and the treatment of and provision for persons confined in the same prison, and the general management and conduct of the said prison; and also to report the opinion of the said commissioners on the expediency of erecting and forming into one or more parish or parishes, or uniting to and consolidating with any adjoining or other existing parish or parishes, the said forest of Dean, and the lands lying within the perambulation and regard of the said forest, or such parts of the said forest and lands respectively as are extra-parochial; and also to state the reasons of the opinion of the said commissioners; and also to report all such other matters relating to the premises as in any such commission or commissions to be issued as aforesaid shall be in that behalf directed.

Commissioners also to report respecting the rights of free miners.

XII. That it shall and may be lawful for the said commissioners, or any two of them, and they are hereby required, at such time or times and in such manner and form as in any such commission or commissions shall be specified, to report to the lord high treasurer or lords commissioners of his Majesty's treasury the opinion of the said commissioners touching the origin of the rights and privileges claimed by the said persons calling themselves free miners as aforesaid, and touching the qualifications, as to birth, occupation, or otherwise, necessary to entitle any person to such rights and privileges; and also to report what the nature and particulars of the said rights and privileges are as now exercised, and over what lands within the said forest or elsewhere such rights and privileges extend or are now exercised, and of the variations (if any) in the manner in which the said rights and privileges have at different times been exercised, and also of such particulars of any former proceedings at law or in equity as in the opinion of the said commissioners shall tend to ascertain the said rights and privileges; and also to report the opinion of the said commissioners whether any such rights and privileges legally exist, and whether the manner in which the said rights and privileges are now exercised be warranted by law, and whether any rights and privileges which legally exist are abused, or are made the cover for illegal practices, and in what particular (if any) the present exercise of the said rights and privileges

departs from, exceeds, or is inconsistent with the exercise of the said rights and privileges as warranted by law; and also to report the opinion of the said commissioners as to the steps proper to be taken for settling the claims of the persons calling themselves free miners; and also to report all such other matters relating to the premises as shall be in that behalf directed by the said commission or commissions.

No. II. 1 & 2 W. 4, c. 12.

XIII. That in case any of the said commissioners so to be appointed For supplying as aforesaid, or any future commissioner or commissioners appointed as vacancies in herein-after mentioned, shall die or be removed before the duties of the commission. commissioners shall be fully performed, then and so often as the same shall happen it shall be lawful for his Majesty to issue or cause to be issued, under the great seal of Great Britain, or under the seal of his Majesty's court of exchequer at Westminster, one or more commission or commissions, and thereby to appoint any other person or persons to be a commissioner or commissioners in the place of the commissioner or commissioners who shall have died, become incapable, or been removed; and that the surviving or continuing commissioner or commissioners (if any), and the commissioner or commissioners appointed as last aforesaid, or any two of them, shall proceed in the discharge of the duties imposed by this act on the commissioners to be first appointed under the provision herein-before contained, in the same manner and with the same powers and authorities in all respects as such commissioners or any two of them might have done in case such death, becoming incapable, or removal, had not taken place.

XIV. That the several reports to be made by the said commissioners Reports to be under the authority of this act shall be made within two years from the made within two years. passing of this act.

XV. That this act shall be deemed and taken to be a public act, and Public act. shall be judicially taken notice of as such by all judges, justices, and others, without being specially pleaded.

[No. III.] 1 & 2 W. IV. c. 29.—An Act to authorize and empower the Commissioners appointed by an Act of the Seventh Year of his late Majesty King George the Fourth, for extending to Charing Cross, the Strand, and Places adjacent the Powers of an Act for making a more convenient communication from Mary-le-bone Park, to make and form a new Street from the Strand to Charles Street, Covent Garden, and to widen the North End of Bow Street into Long Acre; and for other Purposes.

[27th September 1831.]

WHEREAS an act was passed in the fifty-third year of the reign of his late Majesty king George the third, intituled An Act for making 53 G. 3, c. 121. a more convenient Communication from Mary-le-bone Park, and the Northern Parts of the Metropolis, in the parish of Saint Mary-le-bone, to Charing Cross, within the liberty of Westminster; and for making a more convenient Sewage for the same; and by the same act the commissioners for the time being of his Majesty's woods, forests, and land revenues were appointed commissioners for carrying the purposes thereof into execution: And whereas by an act passed in the seventh year of the reign of his late Majesty king George the fourth, intituled An Act to 7 G. 4, c. 77. extend to Charing Cross, the Strand, and Places adjacent, the Powers of an Act for making a more convenient Communication from Mary-le-bone Park; and to enable the Commissioners of his Majesty's Woods, Forests, and Land Revenues to grant leases of the site of Carlton Pulace, it was snacted that the commissioners named and appointed in and by the said act of the fifty-third year of the reign of his said late Majesty king George the third should be and they were thereby authorized and em-

No. III. c. 29. 9 G. 4, c. 70.

powered to make the several improvements and alterations therein men-1 & 2 W. 4, tioned, and to carry the purposes of the said act into execution in manner therein-after mentioned: And whereas an act was passed in the ninth year of the reign of his late Majesty king George the fourth, intituled An Act to alter and enlarge the powers of an Act passed in the Seventh Year of the Reign of his present Majesty, for extending to Charing Cross, the Strand, and places adjacent, the powers of an Act for making a more convenient Communication from Mary-le-bone Park, and for enabling the Commissioners of his Majesty's Woods, Forests, and Land Revenues to Grant Leases of the Site of Carlton Palace; and for other Purposes relating thereto: And whereas it would be a great accommodation to the public, and be the means of opening a more ready communication from the Strand to the northern parts of the Metropolis, if the commissioners named and appointed in and by the said recited act of the seventh year of the reign of his late Majesty king George the fourth, were authorized to make and form a new street, commencing on the north side of the Strand opposite Wellington-street, and extending from thence to Charles-street, Covent-garden, which said street will pass through or into the parishes of Saint Mary-le-Strand, Saint Clement Danes, Saint Paul Covent-garden, and Saint Martin-in-the-Fields, within the liberty of Westminster, in the county of Middlesex; and also to alter and improve Bow-street, by widening the north end thereof into Long Acre, in the said several parishes of Saint Paul Covent-garden and Saint Martinin-the-Fields aforesaid: but as such improvements cannot be effected without the aid and authority of parliament, may it therefore please your Majesty that it may be enacted; and be it enacted, &c., That the com-Commissioners missioners for the time being of his Majesty's woods, forests, and land of his Majesty's revenues shall be and they are hereby authorized and empowered to form and make the said new street, alterations, and improvements hereinbefore mentioned, and to carry the purposes of this act into execution in manner herein-after mentioned; and all acts, matters, and things authorized and necessary to be done and executed by the said commissioners, in pursuance of this act, may be done and executed by any two of them, and the same shall be as valid and effectual, and shall have the same force and effect, as if such acts, matters, and things had been done and executed by all the said commissioners.

woods, &c. authorized to carry this act into execution.

Map or plan of office of the commissioners of woods, &c. and be open to inspection.

II. And whereas a map or plan describing the lines of the street and the street to be the ground and premises through which the proposed alterations deposited at the and improvements are to be made or carried by virtue of this act, together with a book of reference containing a list of the names of the owners and occupiers of such premises, have been made for the purpose of being deposited at the office of the commissioners of his Majesty's woods, forests, and land revenues; be it therefore enacted, That the said map or plan, and book of reference, after the same shall have been authenticated by the signature of the right honourable the speaker of the house of commons, shall be deposited with and shall remain in the custody of the said commissioners of his Majesty's woods, forests, and land revenues, and one copy thereof, signed by the speaker of the house of commons, shall be deposited in the parliament office, and one other copy, so signed, shall be deposited with the clerk of the peace of the city and liberty of Westminster, within three months from the passing of this act, to the end that all persons may at all seasonable times have liberty to inspect and peruse the same, and to take extracts or copies thereof at their will and pleasure, paying the sum of one shilling for every such inspection, and at the rate of sixpence for every seventy-two words of such copies or extracts of the said map or plan and book of reference; and that the said commissioners for executing this act, and for making the said alterations and improvements, shall not deviate between the Strand and Charles-street more than twelve statute feet, nor in any other place more than twenty yards of three feet each, from the lines described in the said map or plan, without the consent and approbation in writing of the person or persons, bodies politic, corporate,

Limiting any deviation from the plan

or collegiate, through whose lands or premises such deviations shall be made.

III. Provided always, That it shall be lawful for the said commissioners for executing this act to make the said proposed street, alterations, and improvements, into, through, across, or over the several Lands and prelands, hereditaments, or premises of any person or persons who is, are, mises described or may be owner or owners of the land or premises over which the same in the plan may is or are set out and described in the said map or plan as aforesaid, be used, notalthough the name or names of such person or persons may happen to withstanding be omitted or mis-stated in the said book of reference, in case it shall errors in the appear to any two or more justices of the peace for the said county of ence. Middlesex, and be certified by writing under their hands, that such

error or omission proceeded from mistake.

IV. That it shall be lawful for the said commissioners for executing Commissioners this act, and they are hereby authorized and empowered, by and with empowered to the consent and approbation in writing of the lord high treasurer of the make the street, United Kingdom of Great Britain and Ireland, or of the commissioners and to stop up for executing the office of lord high treasurer, or any three or more of carriageways them, to cause the said street, alterations, and improvements to be whilst the same made, paved, and improved, into, through, across, or over the lands and premises described in such map or plan and book of reference, and in conformity to the lines described in such map or plan, and to such deviation therefrom as herein mentioned; and for such purpose it shall be lawful for the said commissioners acting in execution of this act, and for their surveyor or surveyors, officers, or workmen, with or without carriages and cattle, from time to time to enter upon the messuages or tenements, lands and premises, through which or whereupon the said street, alterations, or improvements hereby authorized to be made is or are intended to pass or be made, in such manner as the said commissioners acting in the execution of this act shall think necessary or proper, without being deemed a trespasser or trespassers, and without being subject or liable to any fine, penalty, or punishment, for entering or continuing upon any part or parts of such lands and premises, for the damages that shall be thereby occasioned; and the said commissioners acting in execution of this act shall and they are hereby authorized and empowered, during the making of the said alterations and improvements, to stop up all or any part of the carriageways of the said streets, and for that purpose to put up sufficient pallisadoes, bars, posts, or other erections, and to make such orders regulating the passage of all carts, carriages, and horses through the same, as to them the said commissioners shall seem fit and proper; and that the sole power and authority of paving, repairing, cleansing, lighting, and watching the said street and new ways which shall be made by virtue of this act, shall, when the same shall be so made, be vested in, and such street and ways, for all the purposes of paving, repairing, cleansing, lighting, and watching the same, shall be, remain, and continue under the care, management, control, and jurisdiction of the respective parishes to whom the same shall belong.

V. That for the purpose of making the said street, alterations, and Commissioners improvements, it shall be lawful for the said commissioners acting in empowered to the execution of this act, and they are hereby authorized and empow-purchase lands ered, when they shall deem it necessary, by and with the consent and and buildings approbation in writing of the said lord high treasurer, or of the said for the purposes commissioners for executing the said office of lord high treasurer, or of this act. any three or more of them, to treat and agree for the purchase of any of the houses, buildings, erections, ground, tenements, and hereditaments described or comprised in the said map or plan and book of reference, or in such deviation as herein-before mentioned, and of any subsisting leases, terms, estates, and interests therein or charges thereon which the said commissioners for executing this act may, by and with such consent and approbation as aforesaid, deem necessary or expedient to be purchased for the purposes of this act: Provided always,. That the

No. III. 1 & 2 W. 4. c. 29.

No. III. **c.** 29.

Limiting the time for pur-&c.

Powers and provisions of 7 G. 4, c. 77, and 9 G. 4, c. 70, extended to this act.

said commissioners shall not be compelled to purchase the whole of the 1 & 2 W. 4, space coloured on the said plan as being within the powers of purchase limited by this act.

VI. That if the said commissioners shall not within the space of three years, to be computed from the passing of this act, purchase or cause to be valued, as herein-after mentioned, all and every such chasing houses, houses, buildings, erections, ground, tenements, and hereditaments which they are hereby authorized and empowered to purchase as aforesaid, and pay the consideration money, or money awarded for the same respectively in manner directed by this act, then and from thenceforth those powers which are hereby granted to them for such purpose only

shall cease, determine, and be utterly void.

VII. That all the powers, provisions, authorities, regulations, directions, clauses, penalties, forfeitures, matters, and things in the said recited act of the seventh year of the reign of his late Majesty king George the fourth contained, relating to the purchase of any of the houses, buildings, erections, ground, tenements, and hereditaments, and of any subsisting leases, terms, estates, and interests therein, by that act directed to be purchased, or for ascertaining the value of any such premises in case of any refusal or inability to treat, or for completing any such purchase, or obtaining possession of any such premises, or any other matter or thing relating thereto; and all powers, provisions, and authorities in and by the said recited acts of the seventh and ninth years of the reign of his late Majesty given to the said commissioners acting in execution of the said acts, for selling, leasing, or exchanging any houses, buildings, lands, tenements, or hereditaments of or belonging to his Majesty, his heirs or successors, in the said acts mentioned, shall, as far as the same are applicable or can be applied, extend and be construed to extend to this present act, in such manner as that the commissioners acting in execution of the said recited act of the seventh year of the reign of his late Majesty as aforesaid shall be enabled to make the alterations and improvements herein-before directed to be made, and shall have all facilities and advantages for enabling them to make the same, as fully, amply, and effectually, to all intents and purposes whatsoever, as if the same powers, authorities, provisions, regulations, directions, clauses, penalties, forfeitures, matters, and things were particularly repeated and re-enacted in this present act with reference to the said alterations and improvements, and as if such alterations and improvements had been included in and authorized to be made and done by the said last-mentioned act.

Part of the court or passage called Gloucester court, on the James's street, to cease to be a public way.

VIII. And whereas a certain court or passage called Gloucester-court, situate on the east side of Saint James's-street, in the parish of Saint James within the liberty of Westminster in the county of Middlesex, adjoining to freehold property belonging to his Majesty, is now used as a public thoroughfare from Saint James's-street into Crown-court, and east side of St. from thence into King-street in the parish of Saint James aforesaid: And whereas in consequence of the improvements now making by the commissioners of his Majesty's woods, forests, and land revenues, under the powers and provisions of the said recited act of the seventh year of the reign of his late Majesty king George the fourth, by widening the communication between Saint James's-street and King-steeet aforesaid, the greater portion of the said court called Gloucester-court has become unnecessary as a public thoroughfare; and it is desirable that such part of the soil and freehold of the said court should be vested in his Majesty, his heirs and successors, freed and discharged from all public or other rights of passing or repassing over the same: Now therefore it is hereby further enacted, That the said court or passage called Gloucester-court, except so much and such part of the eastern end thereof as may be necessary for a way or passage from Crown-court to the offices belonging to a messuage or dwelling-house in the occupation of John Dingwall, esquire, shall henceforth for ever hereafter cease to be a public way or passage, and that the soil and freehold of the said court

or passage (except as aforesaid) shall from henceforth be vested in his Majesty, his heirs or successors, freed and discharged from all public 1 & 2 W. 4, and private right of passing and repassing over and along the same; and that the said court or passage, and the site, soil, and freehold thereof (except as aforesaid), shall be liable to be sold, exchanged, leased, or disposed of by the commissioners for the time being of his Majesty's woods, forests, and land revenues, in such and the like manner as any other estates or possessions of the crown under their care and management.

No. III.

IX. And whereas by an act passed in the forty-sixth year of the reign 46 G. 3, c. 89. of his late Majesty king George the third, intituled An Act for consolidating and rendering more effectual the several Acts for the Purchase of Buildings and further Improvement of the Streets and Places near to Westminster Hall and the two Houses of Parliament, certain commissioners were appointed and authorized to be appointed for carrying the purposes of the said act into execution: And whereas an act was passed in the forty-eighth year of the reign of his said late Majesty king George the third, intituled An Act to amend and enlarge the Powers of an Act of the 48 G. 3, c. 137. Forty-sixth Year of His present Majesty, for consolidating and rendering more effectual the several Acts for the Purchase of Buildings and further Improvement of the Streets and Places near to Westminster Hall and the Two Houses of Parliament: And whereas by an act passed in the fiftyfourth year of the reign of his said late Majesty king George the third, intituled An Act for further amending and enlarging the Powers of an Act 54 G.3, c. 154.

of the Forty-sixth Year of His present Majesty, intituled 'An Act for ' consolidating and rendering more effectual the several Acts for the Pur-'chase of Buildings and further Improvement of the Streets and Places ' near to Westminster Hall and the Two Houses of Parliament,' and for other purposes therein mentioned, it was amongst other things enacted. that in case the piece or parcel of ground situate, lying, and being on the west side of Little George-street, the north side of Bow-street at the back of the new court house, and the south side of Prince's-mews, containing in length from east to west, as well on the north as the south side, one hundred and two feet and six inches, little more or less, and from north to south, as well on the east as the west side, seventy feet six inches, little more, or less, should at any time thereafter be purchased by the said commissioners of the said act of the forty-sixth year aforesaid, in pursuance of the powers contained in the said acts of the forty-sixth and forty-eighth years aforesaid, or either of them, it should and might be lawful to and for the lord high treasurer, or the commissioners for executing the said office of lord high treasurer, for the time being, or any three or more of them, at any time or times after the purchase or purchases last mentioned should have been made, and notwithstanding any act or acts of parliament then in force to the contrary, by indenture or indentures, to be inrolled in one of his Majesty's courts of record at Westminster, to grant or demise all or any part or parts of the said last-mentioned piece or parcel of ground to the patron, president, and vice-presidents for the time being of the school commonly called, or intended to be called, "The Westminster National Free School," and their successors, for any term or terms of years not exceeding ninety-nine years from the date of respective dates thereof, at a perpercorn rent during the whole of the term or terms of years thereby to be granted, and under and subject to such covenants for building and keeping in repair, and insuring from loss or damage by fire, and such other covenants, conditions, restrictions, and agreements, as the lord high treasurer, or the commissioners for executing the said office of lord high treasurer, for the time being, or any three or more of them, should approve; provided nevertheless, that every such grant or lease should be on the face of it expressed to be made in trust for the purposes of the said Westminster National Free School, and that a proviso should be therein inserted for making void the same respectively in the event of the ground therein to be comprised, and the buildings to be erected thereon, or any of them, or any part thereof, being used for any

No. III.

purpose or purposes whatsoever unconnected with the said school; and 1 & 2 W. 4, it was thereby further enacted, That the patron, president, and vicepresidents for the time being of the said school should be and they were thereby constituted a corporation, by the name of "The Patron, President, and Vice-Presidents of the Westminster National Free School," in order to enable them to accept and take in a corporate capacity, by the name aforesaid, the grant or grants, lease or leases therein-before authorized to be granted, and to execute a counterpart or counterparts thereof, and for other purposes of the said school; and by that name, for the purposes aforesaid, they should and might have and use a common seal, and might sue and be sued, implead and be impleaded; but nothing in the said act, or in such grant or grants, lease or leases, contained or to be contained, should extend to charge the person or persons of him or them, or of his or their heirs, executors, or administrators, or his or their or any of their own proper lands or tenements, goods or chattels, with the performance of all or any of the covenants, conditions, or agreements in the same grant or grants, lease or leases, or any of them, to be contained; but all and every such action and actions, suit and suits, as should be brought or prosecuted for or in respect of the same covenants, conditions, and agreements, or any of them, should be brought or prosecuted against the said patron, president, and vice-presidents, and their successors, for the time being, in their corporate capacity: And whereas the said piece or parcel of ground mentioned and described in the said recited act of the fifty-fouth year of the reign of his late Majesty king George the third, as aforesaid, was soon after the passing of the said act purchased by the said commissioners acting in execution of the said recited act of the forty-sixth year aforesaid, and the patron, president, and vice-presidents of the Westminster National Free School were thereupon let into possession of the said piece or parcel of ground situated between the Westminster court house and Prince's-mews, and have since erected and built thereon a building or school called "The Westminster National Free School," and on a small piece or parcel of crown land on the north side thereof, and adjoining thereto, a dwelling house, for the residence of a master or mistress to such school; which said building, school, and dwelling house have been ever since the completion thereof appropriated and used as and for the purposes of the education of the children of the poor; but no lease has ever been granted to the said patron, president, and vice-presidents of the Westminster National Free School in pursuance of the said recited act of the fifty-fourth year of the reign of his said late Majesty king George the third as aforesaid: and whereas by an act passed in the seventh year of the reign of his late Majesty king George the fourth, intituled An Act to vest in the Commissioners of His Majesty's Woods, Forests, and Land Revenues the Powers of several Acts for the Improvement of the Streets near Westminster Hall and the Houses of Parliament, and to authorize the Conversion of the Pavements in several Parts of the Metropolis into broken Stone Roads, after reciting (amongst other things) the several hereinbefore recited acts of parliament, it was enacted that all the several powers and authorities given by the said acts therein-before recited, to the said commissioners appointed or to be appointed under and by virtue of the said recited act of the forty-sixth year of the reign of his said then late Majesty, should, from and after the passing of the nowreciting act, be transferred to the said commissioners of his Majesty's woods, forests, and land revenues, and be vested in the said last-mentioned commissioners, in as full, ample, and beneficial a manner, to all intents and purposes, for the carrying into effect the objects of the said recited acts, as the same were then vested in the said commissioners appointed under or by virtue of the said recited act of the forty-sixth year of the reign of his said late Majesty; and the said powers and authorities should, as to any exercise thereof by the said commissioners appointed or to be appointed by the said recited act of the forty-sixth year of the reign of his said late Majesty, from and after the passing of

7 G. 4, c. 78.

Class XII.] Land Revenue of the Crown.

the now-reciting act, cease, determine, and be void, except as to any matter or thing which might have been done or contracted to be done 1 & 2 W. 4, by the said last-mentioned commissioners, in virtue thereof, before the passing of the now-reciting act; any thing in the said recited acts, or any of them, to the contrary thereof in anywise notwithstanding; and it was thereby further enacted that all the several provisions in the said therein-before recited acts contained, and thereby made applicable to the said commissioners appointed or to be appointed under or by virtue of the said recited act of the forty-sixth year of the reign of his said then late Majesty, should, from and after the passing of the now-reciting act, apply to the said commissioners of his Majesty's woods, forests, and land revenues, in the same manner, to all intents and purposes, as they would have done in case the said last-mentioned commissioners had been named in the said recited acts, instead of the said commissioners appointed or to be appointed under or by virtue of the said recited act of the forty-sixth year of the reign of his said then late Majesty: And whereas the income of the said Westminster National Free School, depending in a great measure on voluntary annual contributions, has become insufficient to meet its expences, and it has therefore been proposed by the national society for the education of the poor in the principles of the established church to establish the said Westminster National Free School as the central or chief school of the said national society, in order that the children in the neighbourhood of the Westminster National Free School may lose no part of the education hitherto received by them in the said school: And whereas the patron, president, and vice-presidents of the Westminster National Free School, being desirous that the proposal of the said national society should be carried into effect, have applied to and requested the commissioners of his Majesty's woods, forests, and land revenues to make and grant a lease or leases of the said two pieces or parcels of ground, with the building or school and dwelling house so erected thereon respectively as aforesaid, to the said national society; be it therefore enacted, That it Commissioners, shall and may be lawful to and for the commissioners for the time being with consent of of his Majesty's woods, forests, and land revenues, by and with the con- treasury, may sent and approbation of the commissioners of his Majesty's treasury, or grant a certain any three or more of them, at any time or times hereafter, and notwith- piece of ground standing any act or acts now in force to the contrary, to grant or demise society for the the said piece or parcel of ground, with the building or school and education of the dwelling house thereon erected and built, to "The National Society for poor. the Education of the Poor in the Principles of the Established Church," and their successors, for any term or terms of years not exceeding ninety-nine years, to be computed from the twenty-fourth day of June last, at a peppercorn rent for and in respect of the said piece or parcel of ground on which the said building or school is erected and built as aforesaid, and at the yearly rent of one pound fifteen shillings for and in respect of the said piece or parcel of ground on which the said dwelling house is erected and built as aforesaid, payable to his Majesty, his heirs and successors, during the whole of the term or terms of years thereby to be granted, and under and subject to such covenants for keeping in repair, and insuring from loss or damage by fire, and such other covenants, conditions, restrictions, and agreements as the commissioners for the time being of his Majesty's woods, forests, and land revenues shall approve: Provided nevertheless, that every such grant or lease be on the face of it expressed to be made in trust for the purposes of the said national society, and that a proviso be therein inserted for making void the same respectively in the event of the ground therein to be comprised, and the buildings erected thereon, or any of them, or any part thereof, being used for any purpose or purposes whatsoever unconnected with the said national society.

X. Provided always, and be it further declared and enacted, That Saving the nothing in this act contained shall extend, or be deemed or construed to commissioners extend, to prejudice, diminish, alter, or take away any of the rights, of sewers.

No. III. c. 29.

No. III.

powers, or authorities vested in the commissioners of sewers for the 1 & 2 W. 4, city and liberty of Westminster and part of the county of Middlesex; but all the rights, powers, and authorities vested in them shall be as good, valid, and effectual as if this act had not been made.

> [No. IV.] 2 W. 4, c. 1.—An Act for uniting the Office of the Surveyor General of his Majesty's Works and Public Buildings with the office of the Commissioners of his Majesty's Woods, Forests, and Land Revenues; and for other Purposes relating to the Land Revenues.

> > [13th February 1832.]

WHEREAS by divers acts, and particularly an act passed in the tenth year of the reign of his late Majesty king George the fourth, 10 G. 4, c. 50, intituled An Act to consolidate and amend the Lauss relating to the Management and Improvement of his Majesty's Woods, Forests, Parks, and Chases; of the land revenue of the Crown within the Survey of the Backequer in England; and of the land Revenue of the Crown in Ireland; and for extending certain Provisions relating to the same to the Isles of Man and Alderney, all honors, hundreds, castles, lordships, manors, forests, chases, woods, parks, messuages, lands, tithes, fisheries, franchises, services, rents, and other land revenues, possessions, tenements, and hereditaments whatsoever (advowsons of churches and vicarages only excepted) which belong to his Majesty, within the ordering and survey of the court of exchequer in England or Wales, in Ireland, in the Isle of Man and its dependencies, and the Isle of Alderney, whother in possession, remainder, or expectancy, (which said honors, hundreds, castles, lordships, manors, forests, chases, woods, parks, messuages, lands, tithes, fisheries, franchises, services, rents, and other land revenues, possessions, and tenements, are commonly called "The Possessions and Land Revenues of the Crown," are under the management of a first commissioner and two other commissioners appointed by letters patent during his Majesty's pleasure, and styled "The Commissioners of his Majesty's Woods, Forests, and Land Revenues:" And whereas by an act passed in the fifty-fourth year of his late Majesty 54 G. 3, c.157. king George the third, intituled An Act for better Regulation of the Conduct of the Business of the Office of Works, and the Expenditure thereof, his Majesty's works and public buildings, including as well the works and buildings the expence of which is defrayed out of his Majesty's civil list revenues, as the works and buildings the expence of which is defrayed out of any funds granted by parliament, or out of any part of the public revenue usually included in the incidental charges of such department, and the expenditure in respect of such works and buildings, are placed under the superintendence and control of an officer appointed during his Majesty's pleasure, called "The Surveyor General of his Majesty's Works and Public Buildings:" And whereas William Henry Cooper and Frederick Grey Cooper, some of Sir Grey Cooper Baronet, deceased, are the only remaining grantees by letters patent of the office of auditor of the land revenues in England: And whereas, under an act passed in the thirty-ninth year of the reign of his late Ma-39 G.3, c. 83. jesty king George the third, intituled An Act for transferring to the Commissioners for auditing the Public Accounts the Duties now performed in the Office of the Auditors of the land Revenue, and for directing the Mode of attesting the Accounts of the Poymester General of his Majesty's Perces, and under the said act of the teath year of the reign of his late Majesty, after the respective deaths of William Henry Cooper and Frederick Grey Cooper, the office of the said remaining auditors of the had revenue in England are directed to be abolished; and during the continuance of the said patent granted to William Henry Cooper and

Frederick Grey Cooper the duties of the office of auditor for Chaster,

No. IV.

Derby, Lincoln, and Nottingham, and of the office of the auditor for the principality of Wales (the grantees of which last-mentioned offices 2 W. 4, c. 1. are dead), are performed by acting auditors in the said offices of the land revenue of the crown for the counties of Chester, Derby, Lincoln, and Nottingham, and for the principality of Wales, appointed or allowed by the commissioners of his Majesty's treasury, and removable at pleasure; and after the determination of the said remaining office of auditor of the land revenue of the crown in England the accounts of the said commissioners of his Majesty's woods, forests, and land revenues are under the said last-mentioned acts directed to be examined, tried, and audited by the commissioners appointed under the authority of an act of the twenty-fifth year of the reign of his late Majesty king George the third, intituled An Act for better examining and auditing the 25 G. 3, c. 52. Public Accounts of the Kingdom: And whereas it is expedient that the management of the business of the office of works and buildings, and of the business of the office of the commissioners of his Majesty's woods, forests, and land revenues, should be united, and that the duties and powers now performed and exercised and exercisable by the commissioners of his Majesty's woods, forests, and land revenues, and the duties and powers under the said act of the fifty-fourth year of the reign of his late Majesty king George the third, now performed and exercised or exercisable by the surveyor general of his Majesty's works and public buildings, should be performed and exercised by one set of commissioners, to be appointed for the performance and exercise thereof respectively; and it is also expedient that the said remaining office of auditor of the land revenue should be abolished forthwith, and that the examination and auditing of accounts now performed by the eaid remaining auditors and by the said acting auditors shall be transferred to the commissioners for examining and auditing the public accounts of the kingdom, appointed under the authority of the said act of the twenty-lifth year of the reign of his late Majesty king George the third; and it is just that the said William Henry Cooper and Frederick Grey Cooper should receive a compensation for the less they will sustain by the abolilition of their said office of auditor of the land revenue; and it is expedient that provision should be made for the removal of the books of entries, records, deeds, instruments, writings, maps, plans, and other official papers now deposited in the offices or which are or ought to be in the custody of the said remaining auditors of the land revenue of the crown of England, and of the said acting auditors of the land revenue for the counties of Chester, Derby, Lincoln, and Nottingham, and the principality of Wales, and for the future custody and care thereof, and also for the inrolment, in manner herein-after mentioned, of all deeds and instruments which, in case this act had not been passed, ought, under the provisions of the said act of the tenth year of the reign of his late Majesty, to have been inrolled in the said remaining office of the auditor of the land revenue of the crown, or in the office of any acting auditor performing the duty of auditor of the land revenue of the crown in England or Wales, and for the future custody and care of such deeds and instruments: Be it therefore enacted, &c., That it shall be lawful Appointment of for his Majesty, his heirs and successors, at any time after the passing of commissioners this act, and so from time to time, by letters patent under the great seal, of his Majesty's to appoint in the place of the commissioners of his Majesty's woods, forests, to appoint, in the place of the commissioners of his Majesty's woods, woods, land revenues, forests, and land revenues, and of the surveyor general of his Majesty's works, and works and public buildings, any persons, not exceeding three in number, buildings. to be commissioners for performing the duties and exercising the powers now performed and exercisable by the commissioners of his Majesty's woods, forests, and land revenues, and the duties and powers now performed and exercisable by the surveyor general of his Majesty's works and public buildings; and that the persons so first appointed, and their successors shall be called "The Commissioners of his Majesty's Woods, Forests, Land Revenues, Works, and Buildings;" and that the duties heretofore performed, and the powers heretofore exercised or exercisable,

No. IV.

and the hereditaments, properties, rights, exemptions, and privileges 2 W. 4, c. 1. whatsoever vested in or enjoyed by the commissioners of his Majesty's woods, forests, and land revenues, and the duties heretofore performed, and the powers heretofore exercised or exercisable, and the exemptions and privileges enjoyed by the said surveyor general of his Majesty's works and public buildings, shall, from and after such appointment, be performed and exercised and enjoyed by and vested in the commissioners of his Majesty's woods, forests, and land revenues, works and buildings, and their successors; and from and after such appointment all acts of parliament, deeds, bonds, contracts, agreements, and other instruments in which the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, are named or mentioned, shall apply to the commissioners for the time being of his Majesty's woods, forests, land revenues, works and buildings so to be appointed as aforesaid, as if such last-mentioned commissioners had been originally named in and made parties to such acts of parliament, deeds, bonds, contracts, agreements, and other instruments, instead of the commissioners of his Majesty's woods, forests, and land revenues, and the surveyor general of his Majesty's works and public buildings.

Regulations at present applicable to the board of works and to the commissioners of woods, &c. to the commised under this act.

II. That all instructions which, in pursuance of and conformably to the directions of the said act of the fifty-fourth year of the reign of his late Majesty king George the third, the lord high treasurer or the commissioners of his Majesty's treasury have heretofore prepared and transmitted to the surveyor general of the office of works, for the conduct of the business of the office of works, or for the regulation or control of be observed by the expenditure thereof in any of its branches or departments, and all and singular orders, rules, instructions, and directions which, in pursioners appoint-suance of and conformably to the provisions of the said act of the tenth year of the reign of his late Majesty, have been made or given by the lord high treasurer or the commissioners of his Majesty's treasury, touching or concerning the duties of the office of the commissioners of his Majesty's woods, forests, and land revenues, shall be binding upon, observed, and kept by the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, and their successors, in like manner as the same instructions, orders, rules, and directions respectively are now binding upon and are or ought to be observed and performed by the surveyor general of his Majesty's works and public buildings, and by the commissioners of his Majesty's woods, forests, and land revenues respectively.

Commissioners commissioners of the treasury.

III. That the commissioners of his Majesty's woods, forests, land to be under the revenues, works, and buildings, and their successors, shall perform and direction of the observe all the orders, directions, instructions, and rules, not being contrary to this act, which shall from time to time be given to them by the lord high treasurer or the commissioners of his Majesty's treasury for the time being, or any three or more of them, touching the performance of the duties and the exercise of the powers imposed upon and given to them by this act.

Monies in the banks of England and Ireland to be transferred to new commissioners.

IV. That all monies which, at the time of the first appointment of the commissioners of his Majesty's woods, forests, land revenues, works and buildings, shall be in the bank of England or in the bank of Ireland, or in any other bank, placed to the credit of any account or accounts under the control of the commissioners of his Majesty's woods, forests, and land revenues, shall, immediately after the appointment of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, be transferred, and the governors and managers of such banks respectively are hereby authorized and required to transfer the same monies respectively, to the credit of a like account under the control of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings.

V. That the commissioners of his Majesty's woods, forests, land reits pending -carried on venues, works, and buildings, for the purpose of prosecuting, defending,

and carrying on all actions, suits, and proceedings which shall be pend- No. 1V. ing at the time of their first appointment, and that without the necessity 2 W. 4, c. 1. of substituting the names of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, in lieu of the commissioners in the name of of his Majesty's woods, forests, and land revenues, and to and for all the new comother intents, constructions, and purposes whatsoever, except so far as missioners. would be repugnant to the provisions of this act, shall come in the place of and be and shall be deemed and taken to be the successors of the commissioners of his Majesty's woods, forests, and land revenues, and also of the surveyor general of his Majesty's works and public buildings.

VI. That every commissioner to be appointed as herein-before is Commissioners directed shall, before he shall act in pursuance of such appointment, to take an oath take the following oath, to be administered by the chief baron or one on their apother of the barons of his Majesty's exchequer; (that is to say,)

pointment.

' T A. B. do swear, That I will faithfully and diligently execute the duties of a commissioner of his Majesty's woods, forests, land revenues, 'works, and buildings. So help me GOD.

VII. That it shall be lawful for his Majesty and his successors, by Commissioners the letters patent by which the commissioners of his Majesty's woods, to receive salaforests, land revenues, works, and buildings shall be appointed as afore-ries. said, to grant to the person first named in such letters patent respectively (who shall be chairman of the commission, and be called the first commissioner), and to the other commissioners respectively, the like salaries as by the said act of the tenth year of the reign of his late Majesty king George the fourth his Majesty is empowered to grant to the first commissioner and the other commissioners respectively of his Ma-

jesty's woods, forests, and land revenues.

VIII. That it shall and may be lawful for the commissioners to be Powers of forappointed under this act, and they are hereby authorized, empowered, mer acts vested and required, to exercise and carry into effect all the powers, authorities, in the commisclauses, enactments, and provisions contained in the said recited act of sioners. the tenth year of the reign of his late Majesty king George the fourth, either expressly or by reference to any other acts, and also to execute and carry into effect all the powers, authorities, enactments, and provisions contained in any other act or acts relating to his Majesty's woods, forests, and land revenues, or to the estates and possessions of the crown, as fully, amply, and effectually as the same could have been carried into effect and exercised by the commissioners of his Majesty's woods, forests, and land revenues aforesaid, or se if the commissioners to be appointed under this act had been named in the said acts instead of the commissioners of his Majesty's woods, forests, and land revenues aforesaid.

IX. That all leases, and all contracts and agreements for the letting All leases, conof any part or portion of the estates and possessions of his Majesty, tracts, and which shall have been made or entered into by the commissioners of his agreements to Majesty's woods, forests, and land revenues, and all deeds, contracts, remain force in and agreements which shall have been made or entered into by the said the same mancommissioners, or by the surveyor general of his Majesty's works and ner as if this public buildings, shall, from and after the appointment of the commis-passed. sioners under this act, continue and be of the same force and effect against and for the benefit of the commissioners to be appointed under this act as the same would have been of against and for the benefit of the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, in case this act had not been passed; and the commissioners to be appointed as aforesaid under this act shall have the same powers and remedies for recovering the rents and compelling performance of the covenants in such leases respectively contained, and on the part of the lessees to be paid and performed, and for enforcing the performance of

No. IV.

such deeds, contracts, and agreements, and for recovering any penalties 2 W. 4, c. 1. or damages for the nonpayment of such rents, or nonperformance of such covenants, deeds, contracts, and agreements, and shall also have the same benefit of all securities given or entered into for the due payment of such rents, and performance of such covenants, contracts, and agreements respectively, and of all other securities given or entered into, to or with the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, as such commissioners or surveyor general respectively could have had in case this act had not been passed, or as if the commissioners to be appointed under this act had been parties to or named in such leases, contracts, agreements, and securities, instead of the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, or as if the said securities had been given to the commissioners to be appointed under or by virtue of this act; and all rents and sums of money which, if this act had not been passed, would, from and after the appointment of the commissioners under this act, have been due and payable to the commissioners of his Majesty's woods, forests, and land revenues, or to the surveyor general of his Majesty's works and public buildings, shall be due and payable to and shall be paid to the commissioners to be appointed under this act; and such commissioners shall have the same benefit of all bonds and securities, and of all other remedies for recovering and obtaining payment of such sums respectively, as the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, might or could have had in case this act had not been passed; and all debts and sums of money which if this act had not been passed would, from and after the appointment of the commissioners under this act, have been payable by the commissioners of his Majesty's woods, forests, and land revenues, or by the surveyor general of his Majesty's works and public buildings, shall be paid by the commissioners to be appointed under this act; and the commissioners to be appointed under this act, shall, from and after they shall be appointed commissioners as aforesaid, be bound by every such lease, deed, contract, or agreement as aforesaid, in the same manner as if they had been parties thereto or named therein instead of the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings.

Powers and privileges of first commissioner.

X. That the first commissioner of his Majesty's woods, forests, land revenues, works, and buildings shall have the like privilege of receiving and sending letters and packets free from postage, and in all other respects shall have the powers and privileges, and for all purposes whatsoever shall come in the place and be the successor of the first commissioner of his Majesty's woods, forests, and land revenues, as well in relation to all other matters as in relation to his Majesty's woods, forests, and land revenues; and that where any thing is, by any sioners may act act heretofore passed, required, directed, or permitted to be done by the in certain cases. commissioners of his Majesty's woods, forests, and land revenues, and which if done by two of them would by law be as valid and effectual as if done by all of them, and when any thing is by this act or shall by any future act be required, directed, or permitted to be done by the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, the same may be done by any two of them, unless express provision be made to the contrary, and if done by two of them shall be as valid and effectual as if done by all of them.

One commissioner may be a member of the house of commons.

XI. That one of the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, for the time being, and no more, shall be capable of sitting and voting as a member of the house of commons of the united parliament of Great Britain and Ireland; and that no person appointed a commissioner under this act upon the first appointment of such commissioners, and who shall at the time be a commissioner of his Majesty's woods, forests, and land 2 W. 4, c. 1. revenues, shall be deemed or taken to have accepted an office of profit from the crown within the meaning of an act passed in the sixth year of the reign of her late Majesty Queen Ann, intituled An Act for the 6 Anne, c. 7. Security of Her Majesty's Person and Government, and of the Succession to the Crown of Great Britain in the Protestant Line.

No. IV.

XII. That all the accounts, from the fifth day of January one thou- Accounts now sand eight hundred and thirty-two, and the time subsequent thereto, audited by the heretofore examined, tried, and audited by or in the offices of the auditors of the auditors or acting auditors of the land revenue of the crown in England land revenue to and Wales, or in either of them, shall, from and after the passing of this be transferred act, be examined, tried, and audited by the commissioners for ex- to the commisamining and auditing the public accounts of the kingdom under the diting the pubauthority of the said act of the twenty-fifth year of the reign of his late lic accounts. Majesty king George the third, except as to the account for the time previous to the said fifth day of January one thousand eight hundred and thirty-two, and that the said last-mentioned commissioners shall have and exercise the like powers and authorities for examining, trying, and auditing the several accounts aforesaid as are now vested in the same commissioners, by virtue of the said act of the twenty-lifth year of the reign of his late Majesty king George the third, for examining, trying, and auditing the public accounts of the kingdom, or as are now vested in the said remaining grantees of the office of auditors, or in the said acting auditors of the land revenue of the crown in England, and in the principality of Wales respectively, by any statute, law, usage, or custom whatsoever.

XIII. That from and after the fifth day of January one thousand Office of audieight hundred and thirty-three the said remaining office of auditor of tor of the land the land revenue in England, of which the said William Henry Cooper revenue to be and Frederick Grey Cooper are grantees as aforesaid, shall cease; but all abolished. accounts relating to the possessions and land revenues of the crown for the time previous to the said fifth day of January one thousand eight hundred and thirty-two, heretofore liable to be examined, tried, and audited by the said remaining auditors, or by any acting auditors of the land revenue of the crown in England, or in the principality of Wales, shall be examined, tried, and audited by such remaining auditors or acting auditors until the same shall be finally settled, in the like manner, and with the like powers of giving discharges, and all other the like powers and privileges, as if this act had not been passed.

XIV. That a reasonable compensation shall be made to the said Compensation William Henry Cooper and Frederick Grey Cooper respectively for the to grantees; loss they will respectively sustain by the passing of this act; and the which shall be amount of such compensation shall be fixed by such person as the lord fixed by rehigh treasurer, or the commissioners of his Majesty's treasury, or any lerees. three of them, shall for that purpose appoint, on behalf of his Majesty, and by such person as the said William Henry Cooper and Frederick Grey Cooper, or the survivor of them, shall appoint on their or his behalf respectively; and in case the referees so appointed shall not agree, the amount of such compensation shall be fixed by such person as shall be appointed as umpire by the two first-named referees, by writing under their hands, before they proceed to the business of the reference; and the determination of the said referees or of their umpire shall be binding on all parties; and that the said referees and the said umpire shall and may send for persons and papers, and examine witnesses upon oath, which oaths either of the said referees or the said umpire is hereby authorized to administer; and the amount of the compensations, when ascertained as aforesaid, the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, may pay or direct to be paid out of the land revenues of the crown, or out of any money applicable as land revenues of the crown.

No. IV. to provide a place for the records of the

office of land

revenue;

XV. That it shall be lawful for the lord high treasurer, or the com-2 W. 4, c. 1. missioners of his Majesty's treasury for the time being, or any three or more of them, and he or they is and are hereby required, to provide a Commissioners proper building or buildings, in London or Westminster, for the recepof the treasury tion and safe custody of all the books of entry, records, deeds, instruments, writings, maps, plans, and other official papers which are now deposited or kept in the offices or which are or ought to be in the custody of the said remaining auditors or of any of the said acting auditors of the land revenues of the crown in England or in the principality of Wales, and also for the reception and safe custody of such deeds and instruments as shall hereafter be inrolled in pursuance of the directions herein-after contained, and of such other writings, surveys, maps, plans, and other official papers as shall hereafter be deposited as herein-after mentioned; and that the building or buildings so to be provided shall be called "The office of land revenue records and inrolments."

and appoint a

XVI. That it shall be lawful for the lord high treasurer, or the comkeeper thereof. commissioners of his Majesty's treasury for the time being, or any three of them, from time to time to appoint a proper person to be the keeper of the said records and involments, and to make rules and regulations (not contrary to the provisions of this act) for the execution of the duties of the office of keeper of the said records and inrolments.

Keeper to hold pleasure;

XVII. That the keeper of the records and involments shall hold his his office during office during the pleasure of the lord high treasurer, or the commissioners for the time being of his Majesty's treasury, and may be removed from his office by the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three of them, at pleasure.

and to have a salary.

XVIII. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, to assign to the keeper of the records and inrolments such salary or other remuneration as to the lord high treasurer, or to the commissioners of his Majesty's treasury for the time being, or any three of them shall seem meet.

Expences of

XIX. That the expences of providing and maintaining a building or office to be paid buildings for. the said office of records and involments, and all the out of the fees. expenses of carrying on the business of the said office, including salaries and other remunerations, shall be paid and borne out of the produce of the fees to be taken as herein-after mentioned.

Official papers to be removed into the new office.

XX. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, as soon as conveniently may be, to cause all the books of entry, records, deeds, instruments, surveys, writings, maps or plans, and other official papers which are now deposited or kept in the offices or which are or ought to be in the custody of the said remaining auditors or of any of the acting auditors of the land revenues of the crown in England or in the principality of Wales, to be removed to the said office of land revenue records and involments.

All deeds directed by former acts to be inrolled in the to be inrolled in the new office.

XXI. That all deeds or instruments which, in case this act had not been passed, would or ought, after the said fifth day of January one thousand eight hundred and thirty-three, under the authority of the said act of the tenth year of the reign of his late Majesty, or any other office abolished act, or in pursuance of any covenant entered into by any person or persons with the king's Majesty, or the commissioners of his Majesty's woods, forests, and land revenues, to have been or might have been inrolled in the office of any auditor or acting auditor performing the duty of auditor of the land revenue of the crown in England or in the principality of Wales, or in the office of the commissioners for auditing the public accounts, shall be inrolled in the said office of land revenue records and involments.

XXII. That such fees shall be paid for involments made under the Fees to be paid as directed by authority of this act, and for searches in the said office of land revenue records and involments, and for office copies furnished by the same office, as the lord high treasurer, or the commissioners for the time 2 W. 4, c. 1, being of his Majesty's treasury, or any three or more of them, shall from time to time appoint, yet so that such fees shall not exceed the commissioners amount of the fees which have been used and accustomed to be taken of the treasury. upon the involment of the like deeds or instruments, and upon the like searches, and upon the furnishing of the like office copies; and that the fees on the involment of any lease, conveyance, deed, or other instrument by which any part or parts of the possessions and land revenues of the crown shall be demised, granted, sold, or given in exchange, shall be paid by the lessees, purchasers, or grantees, and in other cases by the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings; and a minute or docket of every such lease, grant, deed, or other instrument shall be entered and preserved by the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, in their office.

XXIII. That the said keeper of the records and involments shall and Deeds to be inhe is hereby required to inrol or cause to be inrolled every deed and in-rolled in order strument which is hereby directed to be inrolled in the said office of as they are records and involments in order of time as the same shall respectively be brought in. brought into his office for that purpose, and certify or cause to be certified, under his hand or the hand of some deputy or assistant for the time being of the said keeper of the records and incolments, upon the said deeds or instruments respectively, when inrolled, the fact of their

having been so inrolled.

XXIV. Provided always, That in case of sales where the purchase Sales under a money shall not amount to the sum of one hundred pounds, it shall not certain amount be necessary to inrol under this act the conveyances by which such sales not to be inshall be carried into effect, but the commissioners for the time being of rolled. his Majesty's woods, forests, land revenues, works, and buildings shall once in every year transmit to the said office of records and inrolments a statement of the part or parts of the said possessions and land revenues of the crown which shall have been so sold, including a specification of the district or place in which the same lie, and of the sums for which the same shall have been sold, with the names of the respective purchasers; and such statement shall be inrolled in the books of the office of records and involments.

XXV. That every conveyance, deed, or instrument, whereby any es- All deeds intate, manor, lordship, messuages, lands, tenements, or hereditaments in rolled as here-England or Wales, or any term of years or interest therein, shall be con- by directed veyed or assigned to his Majesty, his heirs or successors, or to a trustee shall be as or trustees for his Majesty, his heirs or successors, under the authority valid as if inof the said act of the tenth year of the reign of his late Majesty, or of rolled in his any other act, shall, when so inrolled as herein-before directed, without Majesty's any involment or acknowledgment thereof, in any court or courts of courts at Westlaw or equity, or any registry thereof, be as good and available, and of minster. the like force and effect in all respects and to all intents and purposes, as if the same had been or was inrolled in any of his Majesty's courts at Westminster, or as if a memorial had been entered or registered in the office appointed for registering deeds and other conveyances of lands and tenements in the county or counties in which the same estates or any of them are situate; any act, law, practice, or usage to the contrary in anywise notwithstanding.

XXVI. That where any deed or certificate, receipt or other instrument, Deeds certified which shall appear to have been made, given, or executed under the bythe keeper of authority of this act, or of any act heretofore passed relating to the the records possessions and land revenues of the crown, shall have written thereon shall be rea memorandum of its having been inrolled in the said office of records ceived in eviand involments, and such memorandum shall purport to be signed by dence. the keeper of the records and involments, or by any person acting as his deputy or assistant, such memorandum shall in the absence of evidence to the contrary, be sufficient proof of the deed, certificate,

No. III.

powers, or authorities vested in the commissioners of sewers for the 1 & 2 W. 4, city and liberty of Westminster and part of the county of Middlesex; but all the rights, powers, and authorities vested in them shall be as good, valid, and effectual as if this act had not been made.

> [No. IV.] 2 W. 4, c. 1.—An Act for uniting the Office of the Surveyor General of his Majesty's Works and Public Buildings with the office of the Commissioners of his Majesty's Woods, Forests, and Land Revenues; and for other Purposes relating to the Land Revenues.

[13th February 1832.]

WHEREAS by divers acts, and particularly an act passed in the tenth year of the reign of his late Majesty king George the fourth, 10 G. 4, c. 50. intituled An Act to consolidate and amend the Laws relating to the Management and Improvement of his Majesty's Woods, Forests, Parks, and Chases; of the land revenue of the Crown within the Survey of the Eucheauer in England; and of the land Revenue of the Crown in Ireland; and for extending certain Provisions relating to the same to the Isles of Man and Alderney, all honors, hundreds, castles, lordships, manors, forests, chases, woods, parks, messuages, lands, tithes, fisheries, franchises, services, rents, and other land revenues, possessions, tenements, and hereditaments whatsoever (advowsons of churches and vicarages only excepted) which belong to his Majesty, within the ordering and survey of the court of exchequer in England or Wales, in Ireland, in the Isle of Man and its dependencies, and the Isle of Alderney, whether in possession, remainder, or expectancy, (which said honors, hundreds, castles, lordships, manors, forests, chases, woods, parks, messuages, lands, tithes, fisheries, franchises, services, rents, and other land revenues, possessions, and tenements, are commonly called "The Possessions and Land Revenues of the Crown," are under the management of a first commissioner and two other commissioners appointed by letters patent during his Majesty's pleasure, and styled "The Commissioners of his Majesty's Woods, Forests, and Land Revenues:" And whereas by an act passed in the fifty-fourth year of his late Majesty 54 G. 3, c.157. king George the third, intituled An Act for better Regulation of the Conduct of the Business of the Office of Works, and the Expenditure thereof, his Majesty's works and public buildings, including as well the works

such department, and the expenditure in respect of such works and buildings, are placed under the superintendence and control of an officer appointed during his Majesty's pleasure, called "The Surveyor General of his Majesty's Works and Public Buildings:" And whereas William Henry Cooper and Frederick Grey Cooper, sons of Sir Grey Cooper Baronet, deceased, are the only remaining grantees by letters patent of the office of auditor of the land revenues in England: And whereas, under an act passed in the thirty-ninth year of the reign of his late Ma-39 G.3, c. 83. jesty king George the third, intituled An Act for transferring to the Commissioners for auditing the Public Accounts the Duties now performed in the Office of the Auditors of the land Revenue, and for directing the Mode of attesting the Accounts of the Paymaster General of his Majesty's Forces, and under the said act of the tenth year of the reign of his late Majesty, after the respective deaths of William Henry Cooper and Frederick Grey Cooper, the office of the said remaining auditors of the land revenue in England are directed to be abolished; and during the continuance of the said patent granted to William Henry Cooper and

Frederick Grey Cooper the duties of the office of auditor for Chester.

and buildings the expence of which is defrayed out of his Majesty's civil list revenues, as the works and buildings the expence of which is defrayed out of any funds granted by parliament, or out of any part of the public revenue usually included in the incidental charges of

Derby, Lincoln, and Nottingham, and of the office of the auditor for the principality of Wales (the grantees of which last-mentioned offices 2 W. 4, c. 1. are dead), are performed by acting auditors in the said offices of the land revenue of the crown for the counties of Chester, Derby, Lincoln, and Nottingham, and for the principality of Wales, appointed or allowed by the commissioners of his Majesty's treasury, and removable at pleasure; and after the determination of the said remaining office of auditor of the land revenue of the crown in England the accounts of the said commissioners of his Majesty's woods, forests, and land revenues are under the said last-mentioned acts directed to be examined, tried, and audited by the commissioners appointed under the authority of an act of the twenty-fifth year of the reign of his late Majesty king George the third, intituled An Act for better enamining and auditing the 25 G. 3, c. 52. Public Accounts of the Kingdom: And whereas it is expedient that the management of the business of the office of works and buildings, and of the business of the office of the commissioners of his Majesty's woods, forests, and land revenues, should be united, and that the duties and powers now performed and exercised and exercisable by the commissioners of his Majesty's woods, forests, and land revenues, and the duties and powers under the said act of the fifty-fourth year of the reign of his late Majesty king George the third, now performed and exercised or exercisable by the surveyor general of his Majesty's works and public buildings, should be performed and exercised by one set of commissioners, to be appointed for the performance and exercise thereof respectively; and it is also expedient that the said remaining office of auditor of the land revenue should be abolished forthwith, and that the examination and auditing of accounts now performed by the said remaining auditors and by the said acting auditors shall be transferred to the commissioners for examining and auditing the public accounts of the kingdom, appointed under the authority of the said act of the twenty-lifth year of the reign of his late Majesty king George the third; and it is just that the said William Henry Cooper and Frederick Grey Cooper should receive a compensation for the less they will sustain by the abolilition of their said office of auditor of the land revenue; and it is expedient that provision should be made for the removal of the books of entries, records, deeds, instruments, writings, maps, plans, and other official papers now deposited in the offices or which are or ought to be in the custody of the said remaining auditors of the land revenue of the crown of England, and of the said acting auditors of the land revenue for the counties of Chester, Derby, Lincoln, and Nottingham, and the principality of Wales, and for the future custody and care thereof, and also for the involment, in manner herein-after mentioned, of all deeds and instruments which, in case this act had not been passed, ought, under the provisions of the said act of the tenth year of the reign of his late Majesty, to have been inrolled in the said remaining office of the auditor of the land revenue of the crown, or in the office of any acting auditor performing the duty of auditor of the land revenue of the crown in England or Wales, and for the future custody and care of such deeds and instruments: Be it therefore enacted, &c., That it shall be lawful Appointment of for his Majesty, his heirs and successors, at any time after the passing of commissioners this act, and so from time to time, by letters patent under the great seal, of his Majesty's to appoint, in the place of the commissioners of his Majesty's woods, forests, forests, and lend revenues, and of the surveyor general of his Majesty's land revenues, forests, and land revenues, and of the surveyor general of his Majesty's works, and works and public buildings, any persons, not exceeding three in number, buildings. to be commissioners for performing the duties and exercising the powers now performed and exercisable by the commissioners of his Majesty's woods, forests, and land revenues, and the duties and powers now performed and exercisable by the surveyor general of his Majesty's works and public buildings; and that the persons so first appointed, and their successors shall be called "The Commissioners of his Majesty's Woods, Forests, Land Revenues, Works, and Buildings;" and that the duties heretofore performed, and the powers heretofore exercised or exercisable,

No. IV.

No. IV.

and the hereditaments, properties, rights, exemptions, and privileges 2 W. 4, c. 1. whatsoever vested in or enjoyed by the commissioners of his Majesty's woods, forests, and land revenues, and the duties heretofore performed, and the powers heretofore exercised or exercisable, and the exemptions and privileges enjoyed by the said surveyor general of his Majesty's works and public buildings, shall, from and after such appointment, be performed and exercised and enjoyed by and vested in the commissioners of his Majesty's woods, forests, and land revenues, works and buildings, and their successors; and from and after such appointment all acts of parliament, deeds, bonds, contracts, agreements, and other instruments in which the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, are named or mentioned, shall apply to the commissioners for the time being of his Majesty's woods, forests, land revenues, works and buildings so to be appointed as aforesaid, as if such last-mentioned commissioners had been originally named in and made parties to such acts of parliament, deeds, bonds, contracts, agreements, and other instruments, instead of the commissioners of his Majesty's woods, forests, and land revenues, and the surveyor general of his Majesty's works and public buildings.

Regulations at present applicable to the board of works and to the commissioners of woods, &c. to the commised under this act

II. That all instructions which, in pursuance of and conformably to the directions of the said act of the fifty-fourth year of the reign of his late Majesty king George the third, the lord high treasurer or the commissioners of his Majesty's treasury have heretofore prepared and transmitted to the surveyor general of the office of works, for the conduct of the business of the office of works, or for the regulation or control of be observed by the expenditure thereof in any of its branches or departments, and all and singular orders, rules, instructions, and directions which, in pursioners appoint-suance of and conformably to the provisions of the said act of the tenth year of the reign of his late Majesty, have been made or given by the lord high treasurer or the commissioners of his Majesty's treasury, touching or concerning the duties of the office of the commissioners of his Majesty's woods, forests, and land revenues, shall be binding upon, observed, and kept by the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, and their successors, in like manner as the same instructions, orders, rules, and directions respectively are now binding upon and are or ought to be observed and performed by the surveyor general of his Majesty's works and public buildings, and by the commissioners of his Majesty's woods, forests, and land revenues respectively.

Commissioners commissioners of the treasury.

III. That the commissioners of his Majesty's woods, forests, land to be under the revenues, works, and buildings, and their successors, shall perform and direction of the observe all the orders, directions, instructions, and rules, not being contrary to this act, which shall from time to time be given to them by the lord high treasurer or the commissioners of his Majesty's treasury for the time being, or any three or more of them, touching the performance of the duties and the exercise of the powers imposed upon and given to them by this act.

Monies in the banks of England and Ireland to be transferred to new commissioners.

IV. That all monies which, at the time of the first appointment of the commissioners of his Majesty's woods, forests, land revenues, works and buildings, shall be in the bank of England or in the bank of Ireland, or in any other bank, placed to the credit of any account or accounts under the control of the commissioners of his Majesty's woods, forests, and land revenues, shall, immediately after the appointment of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, be transferred, and the governors and managers of such banks respectively are hereby authorized and required to transfer the same monies respectively, to the credit of a like account under the control of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings.

V. That the commissioners of his Majesty's woods, forests, land re-Suits pending to be carried on venues, works, and buildings, for the purpose of prosecuting, defending, and carrying on all actions, suits, and proceedings which shall be pend- No. IV. ing at the time of their first appointment, and that without the necessity 2 W. 4, c. 1. of substituting the names of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, in lieu of the commissioners in the name of of his Majesty's woods, forests, and land revenues, and to and for all the new comother intents, constructions, and purposes whatsoever, except so far as missioners. would be repugnant to the provisions of this act, shall come in the place of and be and shall be deemed and taken to be the successors of the commissioners of his Majesty's woods, forests, and land revenues, and also of the surveyor general of his Majesty's works and public buildings.

VI. That every commissioner to be appointed as herein-before is Commissioners directed shall, before he shall act in pursuance of such appointment, to take an oath take the following oath, to be administered by the chief baron or one on their apother of the barons of his Majesty's exchequer; (that is to say,)

pointment.

' T A. B. do swear, That I will faithfully and diligently execute the duties of a commissioner of his Majesty's woods, forests, land revenues, ' works, and buildings. So help me GOD.

VII. That it shall be lawful for his Majesty and his successors, by Commissioners the letters patent by which the commissioners of his Majesty's woods, to receive salaforests, land revenues, works, and buildings shall be appointed as afore-ries. said, to grant to the person first named in such letters patent respectively (who shall be chairman of the commission, and be called the first commissioner), and to the other commissioners respectively, the like salaries as by the said act of the tenth year of the reign of his late Majesty king George the fourth his Majesty is empowered to grant to the first commissioner and the other commissioners respectively of his Ma-

jesty's woods, forests, and land revenues.

VIII. That it shall and may be lawful for the commissioners to be Powers of forappointed under this act, and they are hereby authorized, empowered, mer acts vested and required, to exercise and carry into effect all the powers, authorities, in the commisclauses, enactments, and provisions contained in the said recited act of sioners. the tenth year of the reign of his late Majesty king George the fourth, either expressly or by reference to any other acts, and also to execute and carry into effect all the powers, authorities, enactments, and provisions contained in any other act or acts relating to his Majesty's woods, forests, and land revenues, or to the estates and possessions of the crown, as fully, amply, and effectually as the same could have been carried into effect and exercised by the commissioners of his Majesty's woods, forests, and land revenues aforesaid, or as if the commissioners to be appointed under this act had been named in the said acts instead of the commissioners of his Majesty's woods, forests, and land revenues aforesaid.

IX. That all leases, and all contracts and agreements for the letting All leases, conof any part or portion of the estates and possessions of his Majesty, tracts, and which shall have been made or entered into by the commissioners of his agreements to Majesty's woods, forests, and land revenues, and all deeds, contracts, remain force in and agreements which shall have been made or entered into by the said the same mancommissioners, or by the surveyor general of his Majesty's works and act had not public buildings, shall, from and after the appointment of the commis-passed. sioners under this act, continue and be of the same force and effect against and for the benefit of the commissioners to be appointed under this act as the same would have been of against and for the benefit of the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, in case this act had not been passed; and the commissioners to be appointed as aforesaid under this act shall have the same powers and remedies for recovering the rents and compelling performance of the covenants in such leases respectively contained, and on the part of the lessees to be paid and performed, and for enforcing the performance of

No. IV.

such deeds, contracts, and agreements, and for recovering any penalties 2 W. 4, c. 1. or damages for the nonpayment of such rents, or nonperformance of such covenants, deeds, contracts, and agreements, and shall also have the same benefit of all securities given or entered into for the due payment of such rents, and performance of such covenants, contracts, and agreements respectively, and of all other securities given or entered into, to or with the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, as such commissioners or surveyor general respectively could have had in case this act had not been passed, or as if the commissioners to be appointed under this act had been parties to or named in such leases, contracts, agreements, and securities, instead of the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, or as if the said securities had been given to the commissioners to be appointed under or by virtue of this act; and all rents and sums of money which, if this act had not been passed, would, from and after the appointment of the commissioners under this act, have been due and payable to the commissioners of his Majesty's woods, forests, and land revenues, or to the surveyor general of his Majesty's works and public buildings, shall be due and payable to and shall be paid to the commissioners to be appointed under this act; and such commissioners shall have the same benefit of all bonds and securities, and of all other remedies for recovering and obtaining payment of such sums respectively, as the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings, might or could have had in case this act had not been passed; and all debts and sums of money which if this act had not been passed would, from and after the appointment of the commissioners under this act, have been payable by the commissioners of his Majesty's woods, forests, and land revenues, or by the surveyor general of his Majesty's works and public buildings, shall be paid by the commissioners to be appointed under this act; and the commissioners to be appointed under this act, shall, from and after they shall be appointed commissioners as aforesaid, be bound by every such lease, deed, contract, or agreement as aforesaid, in the same manner as if they had been parties thereto or named therein instead of the commissioners of his Majesty's woods, forests, and land revenues, or the surveyor general of his Majesty's works and public buildings.

Powers and privileges of first commissioner.

X. That the first commissioner of his Majesty's woods, forests, land revenues, works, and buildings shall have the like privilege of receiving and sending letters and packets free from postage, and in all other respects shall have the powers and privileges, and for all purposes whatsoever shall come in the place and be the successor of the first commissioner of his Majesty's woods, forests, and land revenues, as well in relation to all other matters as in relation to his Majesty's woods, forests, and land revenues; and that where any thing is, by any sioners may act act heretofore passed, required, directed, or permitted to be done by the in certain cases. commissioners of his Majesty's woods, forests, and land revenues, and which if done by two of them would by law be as valid and effectual as if done by all of them, and when any thing is by this act or shall by any future act be required, directed, or permitted to be done by the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, the same may be done by any two of them, unless express provision be made to the contrary, and if done by two of them shall be as valid and effectual as if done by all of them.

One commissioner may be a member of the house of commons.

XI. That one of the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, for the time being, and no more, shall be capable of sitting and voting as a member of the house of commons of the united parliament of Great Britain and Ireland; and that no person appointed a commissioner under this act upon the first appointment of such commissioners, and who shall at the No. IV. time be a commissioner of his Majesty's woods, forests, and land 2 W. 4, c. 1. revenues, shall be deemed or taken to have accepted an office of profit from the crown within the meaning of an act passed in the sixth year of the reign of her late Majesty Queen Ann, intituled An Act for the 6 Anne, c. 7. Security of Her Majesty's Person and Government, and of the Succession

to the Crown of Great Britain in the Protestant Line.

XII. That all the accounts, from the fifth day of January one thou- Accounts now sand eight hundred and thirty-two, and the time subsequent thereto, audited by the heretofore examined, tried, and audited by or in the offices of the auditors of the auditors or acting auditors of the land revenue of the crown in England land revenue to and Wales, or in either of them, shall, from and after the passing of this be transferred act, be examined, tried, and audited by the commissioners for ex- to the commisamining and auditing the public accounts of the kingdom under the sioners for auauthority of the said act of the twenty-fifth year of the reign of his late lic accounts. Majesty king George the third, except as to the account for the time previous to the said fifth day of January one thousand eight hundred and thirty-two, and that the said last-mentioned commissioners shall have and exercise the like powers and authorities for examining, trying, and auditing the several accounts aforesaid as are now vested in the same commissioners, by virtue of the said act of the twenty-fifth year of the reign of his late Majesty king George the third, for examining, trying, and auditing the public accounts of the kingdom, or as are now vested in the said remaining grantees of the office of auditors, or in the said acting auditors of the land revenue of the crown in England, and in the principality of Wales respectively, by any statute, law, usage, or custom whatsoever.

XIII. That from and after the fifth day of January one thousand Office of audieight hundred and thirty-three the said remaining office of auditor of tor of the land the land revenue in England, of which the said William Henry Cooper revenue to be and Frederick Grey Cooper are grantees as aforesaid, shall cease; but all abolished. accounts relating to the possessions and land revenues of the crown for the time previous to the said fifth day of January one thousand eight hundred and thirty-two, heretofore liable to be examined, tried, and audited by the said remaining auditors, or by any acting auditors of the land revenue of the crown in England, or in the principality of Wales, shall be examined, tried, and audited by such remaining auditors or acting auditors until the same shall be finally settled, in the like manner, and with the like powers of giving discharges, and all other the like powers and privileges, as if this act had not been passed.

XIV. That a reasonable compensation shall be made to the said Compensation William Henry Cooper and Frederick Grey Cooper respectively for the to grantees; loss they will respectively sustain by the passing of this act; and the which shall be amount of such compensation shall be fixed by such person as the lord fixed by rehigh treasurer, or the commissioners of his Majesty's treasury, or any ferces. three of them, shall for that purpose appoint, on behalf of his Majesty, and by such person as the said William Henry Cooper and Frederick Grey Cooper, or the survivor of them, shall appoint on their or his behalf respectively; and in case the referees so appointed shall not agree, the amount of such compensation shall be fixed by such person as shall be appointed as umpire by the two first-named referees, by writing under their hands, before they proceed to the business of the reference; and the determination of the said referees or of their umpire shall be binding on all parties; and that the said referees and the said umpire shall and may send for persons and papers, and examine witnesses upon oath, which oaths either of the said referees or the said umpire is hereby authorized to administer; and the amount of the compensations, when ascertained as aforesaid, the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, may pay or direct to be paid out of the land revenues of the crown, or out of any money applicable as land revenues of the crown.

No. IV.

to provide a place for the records of the office of land revenue;

XV. That it shall be lawful for the lord high treasurer, or the com-2 W. 4, c. 1. missioners of his Majesty's treasury for the time being, or any three or more of them, and he or they is and are hereby required, to provide a Commissioners proper building or buildings, in London or Westminster, for the recepof the treasury tion and safe custody of all the books of entry, records, deeds, instruments, writings, maps, plans, and other official papers which are now deposited or kept in the offices or which are or ought to be in the custody of the said remaining auditors or of any of the said acting auditors of the land revenues of the crown in England or in the principality of Wales, and also for the reception and safe custody of such deeds and instruments as shall hereafter be inrolled in pursuance of the directions herein-after contained, and of such other writings, surveys, maps, plans, and other official papers as shall hereafter be deposited as herein-after mentioned; and that the building or buildings so to be provided shall be called "The office of land revenue records and inrolments."

and appoint a

XVI. That it shall be lawful for the lord high treasurer, or the comkeeper thereof. commissioners of his Majesty's treasury for the time being, or any three of them, from time to time to appoint a proper person to be the keeper of the said records and involments, and to make rules and regulations (not contrary to the provisions of this act) for the execution of the duties of the office of keeper of the said records and involments.

Keeper to hold pleasure;

XVII. That the keeper of the records and involments shall hold his his office during office during the pleasure of the lord high treasurer, or the commissioners for the time being of his Majesty's treasury, and may be removed from his office by the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three of them, at pleasure.

and to have a salary.

XVIII. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, to assign to the keeper of the records and inrolments such salary or other remuneration as to the lord high treasurer, or to the commissioners of his Majesty's treasury for the time being, or any three of them shall seem meet.

Expences of

XIX. That the expences of providing and maintaining a building or office to be paid buildings for. the said office of records and involments, and all the out of the fees. expenses of carrying on the business of the said office, including salaries and other remunerations, shall be paid and borne out of the produce of the fees to be taken as herein-after mentioned.

Official papers to be removed into the new office.

XX. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, as soon as conveniently may be, to cause all the books of entry, records, deeds, instruments, surveys, writings, maps or plans, and other official papers which are now deposited or kept in the offices or which are or ought to be in the custody of the said remaining auditors or of any of the acting auditors of the land revenues of the crown in England or in the principality of Wales, to be removed to the said office of land revenue records and involments.

All deeds directed by former acts to be inrolled in the office abolished the new office.

XXI. That all deeds or instruments which, in case this act had not been passed, would or ought, after the said fifth day of January one thousand eight hundred and thirty-three, under the authority of the said act of the tenth year of the reign of his late Majesty, or any other act, or in pursuance of any covenant entered into by any person or to be inrolled in persons with the king's Majesty, or the commissioners of his Majesty's woods, forests, and land revenues, to have been or might have been inrolled in the office of any auditor or acting auditor performing the duty of auditor of the land revenue of the crown in England or in the principality of Wales, or in the office of the commissioners for auditing the public accounts, shall be involled in the said office of land revenue records and involments.

Fees to be paid

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XXII. That such fees shall be paid for involments made under the as directed by authority of this act, and for searches in the said office of land revenue records and inrolments, and for office copies furnished by the same office, as the lord high treasurer, or the commissioners for the time 2 W. 4, c. 1, being of his Majesty's treasury, or any three or more of them, shall from time to time appoint, yet so that such fees shall not exceed the commissioners amount of the fees which have been used and accustomed to be taken of the treasury. upon the involment of the like deeds or instruments, and upon the like searches, and upon the furnishing of the like office copies; and that the fees on the involment of any lease, conveyance, deed, or other instrument by which any part or parts of the possessions and land revenues of the crown shall be demised, granted, sold, or given in exchange, shall be paid by the lessees, purchasers, or grantees, and in other cases by the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings; and a minute or docket of every such lease, grant, deed, or other instrument shall be entered and preserved by the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, in their office.

XXIII. That the said keeper of the records and incolments shall and Deeds to be inhe is hereby required to inrol or cause to be inrolled every deed and in-rolled in order strument which is hereby directed to be inrolled in the said office of as they are records and involments in order of time as the same shall respectively be brought in. brought into his office for that purpose, and certify or cause to be certified, under his hand or the hand of some deputy or assistant for the time being of the said keeper of the records and involments, upon the said deeds or instruments respectively, when inrolled, the fact of their

having been so inrolled.

XXIV. Provided always, That in case of sales where the purchase Sales under a money shall not amount to the sum of one hundred pounds, it shall not certain amount be necessary to inrol under this act the conveyances by which such sales not to be inshall be carried into effect, but the commissioners for the time being of rolled. his Majesty's woods, forests, land revenues, works, and buildings shall once in every year transmit to the said office of records and inrolments a statement of the part or parts of the said possessions and land revenues of the crown which shall have been so sold, including a specification of the district or place in which the same lie, and of the sums for which the same shall have been sold, with the names of the respective purchasers; and such statement shall be inrolled in the books of the office of records and involments.

XXV. That every conveyance, deed, or instrument, whereby any es- All deeds intate, manor, lordship, messuages, lands, tenements, or hereditaments in rolled as here-England or Wales, or any term of years or interest therein, shall be con- by directed veyed or assigned to his Majesty, his heirs or successors, or to a trustee shall be as or trustees for his Majesty, his heirs or successors, under the authority valid as if inof the said act of the tenth year of the reign of his late Majesty, or of rolled in his any other act, shall, when so inrolled as herein-before directed, without Majesty's any inrolment or acknowledgment thereof, in any court or courts of courts at Westlaw or equity, or any registry thereof, be as good and available, and of the like force and effect in all respects and to all intents and purposes, as if the same had been or was inrolled in any of his Majesty's courts at Westminster, or as if a memorial had been entered or registered in the office appointed for registering deeds and other conveyances of lands and tenements in the county or counties in which the same estates or any of them are situate; any act, law, practice, or usage to the contrary in anywise notwithstanding.

XXVI. That where any deed or certificate, receipt or other instrument, Deeds certified which shall appear to have been made, given, or executed under the bythe keeper of authority of this act, or of any act heretofore passed relating to the the records possessions and land revenues of the crown, shall have written thereon shall be rea memorandum of its having been inrolled in the said office of records ceived in eviand involments, and such memorandum shall purport to be signed by dence. the keeper of the records and inrolments, or by any person acting as his deputy or assistant, such memorandum shall in the absence of evidence to the contrary, be sufficient proof of the deed, certificate,

No. IV.

receipt, or other instrument having been duly made, granted, given, or 2 W. 4, c. 1. executed by the party or parties by whom the same shall purport to have been signed or executed, and of its having been duly inrolled as stated by such memorandum, and of the provisions of the act under which the same shall appear to have been made, granted, given, or executed, having been duly complied with; and such memorandum shall be receivable in evidence without proof of the handwriting of the signature thereto.

Deeds may be inrolled after the proper period, upon good cause being shown.

XXVII. That in all cases where the involment of any deed or other instrument, or minute or docket, before the keeper of the records and inrolments, or the entry of any deed or other instrument in the office of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, shall be omitted or delayed beyond the period provided for the involment and entry thereof respectively, it shall be lawful for the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, for any reasonable cause to them shown for the omission or delay, and they are hereby authorized and empowered, to permit the making of any such involment or entry nume pro tune, and the same respectively when made under such authority shall be as valid and effectual as if made within the period limited for that purpose.

XXVIII. That the involment of any deed or instrument pursuant to the provisions of this act shall have the like force and effect as the inrolment thereof pursuant to the provisions of the said act of the tenth year of the reign of his late Majesty would have had in case this act had

not been passed.

former act. Keeper of the records to render accounts to commissioners

Involment of

have the same

force as under

deeds shall

XXIX. That the keeper of the records and involments shall from time to time, as often as thereunto required, render and give to the lord high treasurer or to the commissioners of his Majesty's treasury for the time being an account of all monies which shall from time to time be received for fees in the said office of records and involments, and of all of the treasury. disbursements made for payment of the salaries and otherwise, on account of the carrying on the business of the said office; and the monies so received, and which shall not be disbursed as aforesaid, shall from time to time be carried to and become part of the revenues arising from the possessions and land revenues of the crown.

> [No. V.] 2 W. IV. c. 3.—An Act to authorize the Application of Part of the Land Revenue of the Crown for the Completion of the Repair and Improvement of Buckingham [13th February 1832.] Palace.

WHEREAS by an act passed in the tenth year of the reign of his late Majesty king George the fourth, intituled An Act to consolidate and amend the Laws relating to the Management and Improvement of his Majesty's Woods, Forests, Parks, and Chases; of the Land Revenue of the Crown within the Survey of the Exchequer in England; and of the Land Revenue of the Crown in Ireland; and for extending certain Provisions relating to the same to the Isles of Man and Alderney, it was enacted, that from and after the passing of that act all honors, hundreds, castles, lordships, manors, forests, chases, woods, parks, messuages, lands, tithes, fisheries, franchises, services, rents, and other land revenues, possessions, tenements, and hereditaments whatsoever (advowsons of churches and vicarages only excepted), which then did belong to his Majesty, or thereafter should belong to his Majesty, his heirs or successors, within the ordering and survey of the court of exchequer in England or Wales, in Ireland, in the Isle of Man and its dependencies, and the Isle of Alderney, whether in possession, remainder, or reversion, which said honors, hundreds, castles, lordships, manors, forests, chases, woods, parks, messuages, lands, tithes, fisheries, franchises, services,

No. V.

rents, and other land revenues, possessions, tenements, and hereditaments were therein-after, for the sake of distinction called "The Pos. 2 W. 4, c. 3. sessions and Land Revenues of the Crown to which this Act relates," should be under the management of the then present commissioners of his Majesty's woods, forests, and land revenues, and of their successors to be from time to time appointed by his Majesty, his heirs and successors, by his or their letters patent, and the said commissioners and their successors should continue to be called "The Commissioners of His Majesty's Woods, Forests, and Land Revenues;" and by the said act certain powers and authorities were given to the said commissioners for the application of all sums to be received by them under the authority of the said act, from any sales, exchanges, or leases to be made by the said commissioners of any part of the royal forests, and from any sales of any other parts of the possessions and land revenues of the crown, or for equality of exchange on any exchange of any of the said possessions and land revenues; and by the said act power and authority is given and granted to the said commissioners to apply so much of the monies to arise from the annual income of all the said possessions and land revenues of the crown to which the said act related, including fines on leases or otherwise for or in respect of the said possessions and land revenues (except from sales or exchanges), as the lord high treasurer or the commissioners of his Majesty's treasury for the time being should from time to time think proper, towards the payment and discharge of the costs, charges, and expences of the repairs, alterations, and improvements of Buckingham-palace, and the buildings, offices, and grounds appertaining and belonging thereto, provided that the sum to be so applied under the said act to such repairs, alterations, and improvements should not exceed the sum of one hundred and fifty thousand pounds, over and above the sum of three hundred and fortysix thousand pounds which had been then already applied thereto previous to the passing of that act; and, subject to the application aforesaid, and certain other applications mentioned in the said act, the said annual income was thereby directed to be carried to and made part of the consolidated fund of the united kingdom of Great Britain and treland: And whereas the said sum of one hundred and fifty thousand pounds mentioned in the said recited act hath been applied, under the direction of the commissioners of his Majesty's treasury, towards the payment and discharge of the costs, charges, and expences of the repairs, alterations, and improvements of Buckingham-palace, and the buildings, offices, and grounds appertaining and belonging thereto; but such repairs, alterations, and improvements are not yet completed and finished, and it will be necessary to lay out and expend the further sum of seventy-eight thousand seven hundred and fifty pounds in the completing of such repairs, alterations, and improvements as aforesaid: And whereas it is expedient that the hereditary revenues belonging to his Majesty in right of his crown should be made applicable, by and with the consent and approbation of the commissioners of his Majesty's treasury of the united kingdom of Great Britain and Ireland, to the purpose of defraying the costs, charges, and expences of completing and finishing the repairs, alterations, and improvements of Buckinghampalace, and the buildings, offices, and grounds appertaining and belonging thereto: Be it therefore enacted, &c., That it shall be lawful for Commissioners the said commissioners of his Majesty's treasury, or any three of them, of the treasury from time to time to direct and authorize the commissioners of his may authorize Majesty's woods, forests, and land revenues to pay and apply any sum the application or sums of money, part of the land revenues of the crown under their of part of the care and management, whether arising from sales of portions of the land revenues said land revenues of the crown, or from the rents of the crown lands, towards the reor otherwise, as they shall think necessary and expedient, towards the pairs and impayment and discharge of the costs, charges, and expences of completing provements of and finishing the repairs, alterations, and improvements of Buckingham-Buckingham palace, and the buildings, offices, and grounds appertaining and palace.

No. V.

Such application to have precedence of all others.

belonging thereto, provided that the sum to be so applied under this 2 W. 5, c. 3. act shall not exceed the sum of seventy-five thousand pounds for the completion of such repairs, alterations, and improvements, and the sum of three thousand seven hundred and fifty pounds for the charges of the architect attendant upon such works.

> II. That the payment of such sum or sums of money herein-before authorized to be made shall be prior to and take precedence of the payment or application of any sum or sums of money arising from the said land revenues for the purposes of the consolidated fund; but the said land revenues shall nevertheless remain subject and liable to the costs and charges attending the management thereof, and the payment or discharge of any sum or sums of money which may be now already charged thereon, or to the payment whereof the same now are or may hereafter become liable under or by virtue of any act or acts relating the said land revenues; any act or acts relating to or concerning the said revenues to the contrary thereof in anywise notwithstanding.

> 2 & 3 W. IV. c. 112.—An Act to authorize the Hereditary Land Revenues of the Crown in Scotland being placed under the Management of the Commissioners of the [15th August 1832.] Land Kevenues.

> WHEREAS it may hereafter become expedient that the duties and

powers now performed and exercised and exercisable by the barons of his Majesty's court of exchequer in Scotland over the hereditary land revenues of the crown in Scotland should be performed and exercised by and such revenues placed under the management and control of the commissioners having the management and control of the hereditary revenues of the crown in England and Ireland; (1) be it therefore enacted, &c., That it shall and may be lawful to and for the lord high treasurer, or the commissioners of his Majesty's treasury of the united kingdom of Great Britain and Ireland, for the time being, or any three or more of them, and he and they is and are hereby authorized and empowered, by warrant under his or their hand or hands, to order and direct that nues, debts, du- from and after the time to be mentioned in such warrant all and every the revenues, debts, duties, and profits, of what nature or kind soever, anyways appertaining or which hereafter shall appertain to the king's Majesty, his heirs or successors within Scotland, and all honors, castles, manors, lands, tenements, and hereditaments in Scotland, which now do or hereafter shall appertain to the king's Majesty, his heirs or successors, by force or virtue of any attainder, outlawry, seizure for any crime, or cause of forfeiture, debt, or duty, or upon any extent, commission, or otherwise, or by force and virtue of the royal prerogative, or by any other right or title whatsoever, and all and every the rents, issues, and profits thereof or of any of them, and also all and every the goods, chatttels, debts, credits, rights, titles, and personal estates within Scotland anyways accruing or belonging or which hereafter shall belong to the king's Majesty, his heirs and successors, by force or virtue of the royal prerogative, or of any attainder, outlawry, extent, inquisition, debt, duty, or forfeiture, or by any other right, title, ways, or means whatsoever, and all the remedies and means for recovering the same or the possession thereof, and all accounts relating thereto, and also all and every forfeitures and penalties which have been incurred or shall or may incur or become anyways due and payable in Scotland by force or virtue of any penal or other laws or statutes whatsoever, and also all fines, issues, forfeitures, or penalties, of what nature or kind soever, happening, arising, or accruing to the king's Majesty, his heirs or successors, within Scotland, save and except such as are now under the management of the commissioners of his Majesty's customs and excise

The treasury may issue a warrant directing all reveties, &c. in Scotland belonging to his Majesty, to be placed under the management of the commissioners of woods, forests, and land revenues.

No. VI.

c. 112.

respectively, shall be under the management, control, and direction of the commissioners for the time being of his Majesty's woods, forests, 2 & 3 W. 4, land revenues, works, and buildings in England and Ireland, and their successors, acting under or by virtue of an act passed in the tenth year of the reign of his late Majesty king George the fourth, intituled An 10 G. 4, c. 50. Act to consolidate and amend the Laws relating to the Management and Improvement of His Majesty's Woods, Forests, Parks, and Chases; of the Land Revenue of the Crown within the Survey of the Exchequer in England; and of the Land Revenue of the Crown in Ireland; and for extending certain Provisions relating to the same to the Isles of Man and Alderney; and of another act passed in the second year of the reign of his present Majesty, intituled An Act for uniting the Office of the Sur- 2 W. 4, c. 1. veyor General of His Majesty's Works and Public Buildings with the Office of the Commissioners of His Majesty's Woods, Forests, and Land Revenues, and for other Purposes relating to the Land Revenues; and from and after the time to be mentioned in such warrant as aforesaid the duties heretofore performed, and the powers heretofore exercised or exercisable, by the harons of his Majesty's court of exchequer in Scotland, in and about the management and control of such hereditaments and revenues respectively, shall be performed and exercised by the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, and their successors; and all acts, deeds, bonds, contracts, agreements, and other instruments relating to such hereditaments and revenues respectively, in which the said barons of his Majesty's court of exchequer in Scotland are named or mentioned. shall apply to the commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings, as if such commissioners had been originally named in and made parties to such acts, deeds, bonds, contracts, agreements, and other instruments, instead of the barons of the exchequer aforesaid.

II. That from and after the time to be mentioned in such warrant as Accounts reaforesaid all the accounts relating to such hereditaments and posses-lating to such sions as aforesaid, heretofore examined, tried, and audited by the said revenues to be barons of the exchequer in Scotland, shall be examined, tried, and then transaudited in like manner as the accounts relating to the land revenue of said commisthe crown in England are in and by the said act passed in the second sioners. year of the reign of his present Majesty as aforesaid directed to be exa-

mined, tried, and audited.

[No. VII.] 3 & 4 W. IV. c. 38.—An Act to extend to the Twenty-first Day of January One thousand eight hundred and thirty-four, and to the End of the then next Session of Parliament, the Time for carrying into execution an Act of the First and Second Years of his present Majesty, for ascertaining the Boundaries of the Forest of Dean, and for inquiring into the Rights and Privileges claimed by Free Miners of the Hundred of Saint Briavels, and for other [14th August 1833.] Purposes.

WHEREAS an act was passed in the first and second years of the 1 & 2 W. 4. reign of his present Majesty, intituled An Act for ascertaining the c. 12. Boundaries of the Forest of Dean, and for inquiring into the Rights and Privileges claimed by Free Miners of the Hundred of Saint Briavels, and for other purposes, And whereas the commission directed by the said recited act to be issued under the great seal of Great Britain, or under the seal of his Majesty's court of exchequer, bears date the twenty-first day of January one thousand eight hundred and thirty-two: And whereas the time within which the commissioners are by the said recited

No. VII. c. 38.

act directed to make their reports to the lord high treasurer, or lords 3 & 4 W. 4, commissioners of his Majesty's treasury, will expire on the second day of August one thousand eight hundred and thirty-three: And whereas the commissioners appointed by virtue of the said act have proceeded with all practicable expedition, and have made great progress in inquring into and ascertaining the boundaries of the said forest of Dean, the rights and interests of persons occupying or claiming to be interested in lands or tenements within the same, and the origin of the rights and privileges claimed by the persons calling themselves free miners; but as such rights, privileges, and interests are of a very complicated description, and have occupied considerable time in their investigation, and some of them not being yet ascertained and settled, it will be impracticable for the commissioners to make the reports directed by the said recited act within the period thereby limited; and it is therefore expedient that further time should be allowed for that purpose; be it there-Time of mak- fore enacted, &c. That the time for making the several reports directed ing reports un- to be made by the said commissioners under the authority of the said recited act shall be extended until the twenty-first day of January one thousand eight hundred and thirty-four, and from thence to the end of the then next session of parliament.

der recited act extended until 21 Jan. 1834.

Powers of recited act extended to this act.

II. That all the powers, provisions, authorities, regulations, directions, clauses penalties, forfeitures, matters, and things in the said recited act contained shall extend and be construed to extend to this present act, and shall operate and be in force during the said additional period, as fully and effectually, to all intents and purposes, as if the same powers, authorities, provisions, regulations, directions, clauses, penalties, forfeitures, matters, and things were particularly repeated and re-enacted in the body of this act and made expressly applicable thereto, and as if the time for the making the said several reports by the said commissioners as aforesaid had been therein originally extended to the said ad-

ditional period.

[No. VIII.] 3 & 4 W. IV. c. 69.—An Act to extend and enlarge the Powers of the Commissioners of his Majesty's Woods, Forests, Land Revenues, Works, and Buildings, in relation to the Management and Disposition of the Land Revenue of the Crown in Scotland.

[28th August 1833.]

10 G. 4, c. 50.

WHEREAS by an act passed in the tenth year of the reign of his late Majesty king George the Fourth, intituled An Act to consolidate and amend the Laws relating to the Management and Improvement of his Majesty's Woods, Forests, Parks, and Chases, of the Land Revenue of the Crown within the Survey of the Exchequer in England, and of the Land Revenue of the Croson in Ireland, and for extending certain Provisions relating to the same to the Isles of Man and Alderney, it was enacted, that all the land revenues whatsoever (advowsons of churches and vicarages only excepted) which belonged to his Majesty within the ordering or survey of the court of exchequer in England or Wales, in Ireland in the Isle of Man and its dependencies, and the Isle of Alderney, should be under the management of the commissioners of his Majesty's woods, forests, and land revenues, and of their successors; and the said commissioners were thereby authorized to sell and lease, and otherwise dispose of and manage, the said land revenues to which the act now in recital relates. ss in the said act is mentioned, and also to purchase, exchange, and take leases of any property under the terms and conditions and as in the said act is mentioned, and to appoint and remove officers and receivers relating to or otherwise employed in the receipt and management of the said revenue, and generally to administer the same as in the

said act is mentioned: And whereas by an act passed in the first year No. VIII. of the reign of his present Majesty, intituled An Act for the Support of 3 & 4 W. 4, His Majesty's Household, and of the Honour and Dignity of the Crown of the United Kingdom of Great Britain and Ireland, it was (amongst other things) enacted, that the produce of the hereditary duties and reve- 1 W. 4, c. 28. nues (except the hereditary duties of excise on beer, ale, and cider,) which were payable to his said late Majesty king George the fourth in that part of Great Britain called Scotland, and also the small branches of the hereditary revenue and the produce of the hereditary casual revenues arising from any droits of admiralty or droits of the crown arising in the united kingdom, which had accrued since the decease of his said late Majesty, and which had not been applied and distributed in the payment of any charge thereupon respectively, or which should accrue during the life of his present Majesty, should be carried to and made part of the consolidated fund of the united kingdom of Great Britain and Ireland, and after the decease of his present Majesty all the said hereditary revenues, including the duties on beer, ale, and cider, should be payable and paid to his heirs and successors: And whereas by an act passed in the second year of the reign of his present Majesty, intituled An Act for uniting the Office of the Surveyor General of his 2 W. 4, c. 1. Majesty's Works and Public Buildings with the Office of the Commissioners of his Majesty's Woods, Forests, and Land Revenues, and for other Purposes relating to the Land Revenues, it was enacted, that it should be lawful for his Majesty, his heirs and successors, by letters patent under the great seal, to appoint in the place of the commissioners of his Majesty's woods, forests, and land revenues, and of the surveyor general of his Majesty's works and public buildings, any persons, not exceeding three in number, to be commissioners for performing the duties and exercising the powers then performed and exercisable by the commissioners of his Majesty's woods, forests, and land revenues, and the duties and powers then performed and exercisable by the surveyor general of his Majesty's works and public buildings, and that the persons so first appointed, and their successors, should be called "The Commissioners of his Majesty's Woods, Forests, Land Revenues, Works, and Buildings;" and the said commissioners were by the said act empowered to exercise and carry into effect all the powers and provisions contained in the said recited act of the tenth year of the reign of his late Majesty king George the fourth, either expressly or by reference to any other acts: And whereas by virtue of an act passed in the second and third years of the reign of his present Majesty, intituled An Act to 2 & 3 W. 4, authorize the Hereditary Land Revenues of the Crown in Scotland being c. 112. placed under the Management of the Commissioners of the Land Revenues, all the revenues, debts, duties, and profits, of what nature or kind soever, appertaining to the king's Majesty, his heirs or successors, within Scotland, and all honors, castles, manors, lands, tenements, and hereditaments in Scotland appertaining to the king's Majesty, his heirs or successors, by virtue of any attainder, outlawry, seizure for any crime or cause of forfeiture, debt, or duty, or upon any extent, commission, or otherwise, or by virtue of the royal prerogative, or by any other right or title whatsoever, and all the rents, issues, and profits thereof or of any of them, and also all the goods, chattels, debts, credits, rights, titles, and personal estates within Scotland anywise accruing or belonging to the king's Majesty, his heirs or successors, by virtue of the royal prerogative, or of any attainder, outlawry, extent, inquisition, debt, duty, or forfeiture, or by any other right, title, ways, or means whatsoever, and all the remedies and means for recovering the same and the possession thereof, and all accounts relating thereto, and also all forfeitures and penalties which have been incurred, or should be incurred, or become in anyways due and payable in Scotland by virtue of any penal or other laws or statutes whatsoever; and also all fines, issues, forfeiture, and penalties, of what nature or kind soever, happening, arising, or accruing to the king's Majesty, his heirs or suc-

No. VIII. c. 69.

So much of recited act of 2 & 3 W. 4, as gives the commiss opers control of penalties, &c. under penal statutes repealed.

Commissioners to have the same powers with regard to Scotland as with respect to land revenue in England.

All the provic. 50, relating ing, &c. the land revenues, and all the powers, &c. thereby given to the commis-

cessors, within Scotland (except such as are now under the management 3 & 4 W. 4, of the commissioners of his Majesty's customs and excise respectively), are under the management, control, and direction of the commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings in England and Ireland: And whereas it is expedient that the said commissioners should have such and the like powers of selling, leasing, and administering the hereditary possessions of his Majesty in Scotland, and of appointing and removing officers, and of purchasing, exchanging, and taking leases of lands in Scotland, in all respects as is by the said act passed in the tenth year of the reign of his late Majesty king George the fourth provided with respect to the land revenue in England, and generally that the several provisions contained in the said act passed in the tenth year of the reign of his said late Majesty king George the fourth should be extended to Scotland: And whereas it is expedient that so much of the said act passed in the second and third years of the reign of his present Majesty as relates to such part of the revenue of the crown in Scotland as are after mentioned should be repealed: Be it therefore enacted, &c., That so much of the said act passed in the second and third year of the reign of his present Majesty as gives to the said commissioners the management, control, and direction of all and every penalties and penalty which have been incurred, or which shall and may be incurred, or become anywise due and payable, in Scotland, by force or virtue of any penal statute, shall be repealed, and the same is hereby repealed.

11. That the said commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings shall, from and after the passing of this act, have and exercise all and every the powers and authorities whatsoever with regard to his Majesty's land revenue, land revenue in lands, tiends, feu retour, and other duties and casualties in Scotland under their management and control, as are contained in the said act passed in the tenth year of the reign of his late Majesty king George the fourth with respect to his Majesty's land revenue in England, and which the said commissioners are now entitled to have and exercise with respect to the land revenue in England, and in all respects as if his Majesty's land revenue, lands, tiends, feu retour, and other duties and casualties in Scotland, had been included and named in the said lastmentioned act, and the several clauses and provisions therein contained had been made applicable thereto, in the same manner as the same are

made applicable to his Majesty's land revenue in England. III. That all and every the provisions, regulations, directions, clauses, sions of 10 G. 4, matters, things, powers, and authorities in the said recited act of the tenth year of the reign of his late Majesty king George the fourth conto selling, leas-tained, either expressly or by reference to other acts, relating to the selling, leasing, exchanging, and general administration of the possessions and land revenues of the crown in England, and all other the powers, provisions, and authorities in and by the said recited act of the tenth year of the reign of his late Majesty king George the fourth given to the said commissioners of his Majesty's woods, forests, and land revenues, shall, so far as the same are applicable or can be applied, tend to this act. extend and be construed to extend to this present act, as fully, amply, and effectually, to all intents and purposes whatsoever, as if the same provisions, regulations, directions, clauses, matters, things, powers, and authorities were particularly repeated and re-enacted in this present act, and made applicable to the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, or as if the said possessions and land revenues of the crown in Scotland had been included in the said recited act of the tenth year of the reign of his said late Majesty, and the aforesaid powers and provisions had been thereby made applicable to the possessions and land revenues of the crown in Scotland, (except that in all cases in which the sanction of the court of exchequer in England is by the said recited act of the tenth year of the reign of his late Majesty king George the fourth made necessary, the

sanction and authority of the court of session in Scotland shall be sufficient with respect to the said possessions and land revenues of the 3 & 4 W. 4, crown in Scotland; and except that all deeds, conveyances, or other documents relating to any sale, feu, exchange, lease, or purchase under the authority of this act, need not be involled in such manner as is directed by the said act of the tenth year of the reign of his late Majesty king George the fourth with respect to the instruments whereby any hereditaments in England should be sold under the authority of the said act).

No. VIII. c. 69.

IV. That whenever the commissioners for the time being of his Ma-Purchase jesty's woods, forests, land revenues, works, and buildings shall have money, how to contracted or agreed with any person, body politic, corporate, or colle- be paid. giate, under the authority of this act, for the sale, feuing, letting, exchanging, or otherwise disposing to him or them of any part of the lands or other property or subjects of the crown to which this act relates, (not being any subsisting lease which may have been purchased or taken under the powers of this act,) the purchaser, in case the purchase money shall amount to the sum of one hundred pounds, shall If amounting to cause the same to be paid into the bank of England, or any chartered 1001. bank in Scotland, or branch of the same throughout Scotland, as the said commissioners may direct; and the secretary, cashier, or other proper officer of the bank of England, or such chartered bank or branch thereof, shall, upon the production of any note signed by the said commissioners, specifying the sum to be so paid, and that it is to be so paid to their account, accept and receive the same, and carry the same to the account of the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, and give a receipt for the same, without fee or reward; but if such purchase money shall not amount to the Where the sum sum of one hundred pounds, it shall not be necessary for the purchaser is under 1001. to pay the same into the bank of England, or such chartered bank or branch thereof, but he or they may, at his or their option, either pay the same into the bank of England, or any such chartered bank or branch thereof, as the said commissioners may direct, (in which case the secretary, cashier, or other proper officer of the said bank of England, or any such chartered bank or branch thereof, shall accept and give a receipt for the same as aforesaid,) or to the said commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings, or their collector or agent to be appointed by them for that purpose; and the said commissioners shall, on the production of Upon producthe receipt of the secretary, cashier, or other proper officer of the bank tion of receipt, of England, or such chartered bank or branch thereof, for such pur-commissioners chase money, or in case the same shall not amount to one hundred to execute a pounds, then either on the production of such receipt, or on the pay-conveyance of ment to them, their collector or agent, of such purchase money, execute the property to the purchaser a conveyance, either printed or written, or partly sold. printed and partly written, under their hands, of the lands, or other property or subjects agreed to be sold or exchanged, and give a receipt for the purchase money under their hands; and every such conveyance and receipt may be according to the form set forth in the schedule to this act annexed, or in any other form which may be deemed by the said commissioners more convenient; and every such conveyance and receipt shall be attested, as to the execution and signing thereof, by two witnesses; and it is hereby declared, that any deed, grant, or con- Conveyance veyance so made and granted of the lands, tiends, feu retour, and other when recorded

heirs and successors, had been granted, or as if the same had been con-

stituted by a formal crown charter, and followed by sasine.

duties, casualties, rents, and other the heritable property of the crown in the register in Scotland, by the said commissioners, on being recorded or registered of sasines to be in the general or particular register of sasines, shall be held to alienate held to alienate and dispone from his Majesty, his heirs and successors, the property or the property other subjects therein expressed to be comprised, in as valid a manner from his Maas if a complete feudal right holding, of and under his Majesty, his jesty.

No. VIII. c. 69.

On sale of teinds, &c. to the vassal, receipt for purchase money to contain a declaratory promise that on the next renewal of investiture the charter shall contain a in lieu of the feu, &c.

Proprietors, estates may purchase the teinds, &c. affecting the same.

Commissioners veyances, registered and Scotland; and a minute or conveyance.

ed in their

office.

V. That it shall and may be lawful for the said commissioners of his 3 & 4 W. 4, Majesty's woods, forests, land revenues, works, and buildings, on the sale of any teind, feu retour, or other duties, casualties, or rents, if such sale shall be made to the vassal in the feu, to grant a receipt for the purchase money or other consideration agreed to be given for the same, and which receipt shall also contain a declaration that on the next renewal of the investiture in favour of the vassal, or of his heirs or disponees, the charter, precept, or other deed to be granted by or on behalf of the crown shall contain a blench holding in lieu and place of the feu or other holding or duty in the original rights or investitures; and such receipt and declaration, delivered to the vassal so purchasing, on payment of the purchase money, shall be a sufficient renunciation and voucher to him or her, or his or her heirs and successors, until the renewal of such investiture, and shall be a sufficient warrant to the barons of the court of exchequer in Scotland, and all others, when a blench holding renewal of the investiture shall be required, to grant such renewed investiture with a blench holding.

VI. That it shall and may be lawful for the proprietors of entailed estates in Scotland, and for their trustees, and the tutors, curators, and &c. of entailed administrators in law of such proprietors, to purchase the teind, feu retour, and other duties, casualties, rents, and all other the land revenues due to and exigible by the crown, and affecting such estates, and which the said commissioners are hereby authorized to sell and dispose of, and either to disburden their estates from the payment of such tiend, feu retour, or other duty, casualty, or rent, or to make the purchase money of the same a debt and burden on such entailed estate, in like manner as the sum paid for redemption of the land tax is made a burden on entailed property in terms of an act passed in the fortysecond year of the reign of his late Majesty king George the third, 24 G.3, c.116. intituled An Act for consolidating the Provisions of the several Acts passed for the Redemption and Sale of the Land Tax into One Act, and for making further Provision for the Redemption and Sale thereof; and for removing Doubts respecting the Right of Persons claiming to vote at Elections for Knights of the Shire and other Members to serve in Parliament, in respect of Messuages, Lands, or Tenements, the Land Tax upon which shall have been redeemed or purchased, or of any other act or acts

of parliament in relation thereto now in force.

VII. Provided always, That the said commissioners for the time to cause dupli-being of his Majesty's woods, forests, land revenues, works, and buildcates of all con- ings shall cause duplicates of all conveyances, deeds, and documents whereby any lands or other property or subjects in Scotland shall be deeds, &c. to be hereafter purchased or taken in exchange by them for or on behalf of his Majesty, his heirs or successors, under the authority of this act, or the chancery of which shall be conveyed or leased to his Majesty, his heirs or successors, or to any person in trust for him or them, and of all leases to be made or granted by the said commissioners under the authority of this docket of every act, of any lands or other heritable property or subjects of the crown in Scotland, and of all conveyances, deeds, and documents whereby any &c. to be enter- part of the lands or other property or subjects of the crown in Scotland ed and preserv- shall be granted, sold, exchanged, or conveyed under the powers of this act, to be transmitted to the office of chancery of Scotland, there to be recorded or registered; and every such duplicate shall be there preserved and recorded among the other records and muniments relating to the lands or other property or subjects of the crown preserved in such office; and a minute or docket of every such conveyance, deed, or document shall be entered and preserved by the said commissioners of his Majesty's woods, forests, land revenues, works, and buildings, in their office.

VIII. That not only the original conveyance, deed, or other document Original conveyance, deed, by which any lands or other heritable property or subjects to which this act relates shall be disposed of under the provisions of this act, but or duplicate thereof, or copy also the duplicate thereof, to be so transmitted as aforesaid, or a copy

or extract of such duplicate, attested by the officer for the time being in No. VIII. whose custody the same shall remain, (and which copies the said officer 3 & 4 W. 4, is hereby authorised and required to grant to any person applying for the same, on payment of a fee of one shilling for every such copy, and if the same shall consist of more than seventy-two words, then of a fur- or extract of ther fee of one shilling for every seventy-two words over the first same duly atseventy-two words,) shall be admitted in all courts as evidence of the tested, to be in right and title of the purchasers, grantees, lessees, and all persons all courts eviclaiming under them, to the subjects to which such conveyances, deeds, dence of right or other documents shall relate.

IX. That every conveyance, deed, or other document whereby any Every deed inlands or other heritable property or subjects to which this act relates, rolled in chanor any term of years or interest therein, shall be conveyed or leased to cery in Scothis Majesty, his heirs or successors, or to a trustee or trustees for his land to be of Majesty, his heir or successors, under the authority of this act, shall, like force as if without any other inrolment or registration thereof than in the office of registered in chancery in Scotland as aforesaid, be of the like force in favour of his books of councilosty his heirs and spacesory as if the same had been on reason cil and session Majesty, his heirs and successors, as if the same had been or was in- or register of rolled or registered in the books of council and session, or in the gene-sasines. ral or special register of sasines in the county, shire, or stewartry within which the lands or other heritable property or subjects shall be

situate. X. Provided always, That a note or memorandum of every such con- A memoranveyance, deed, or other document, setting forth the date thereof, the dum of every names of the disponer or granter and disponee or grantee, and the lead-conveyance, ing names of the lands or heritages, and of the county or counties setting forth the wherein the same are situated, shall, within fourteen days after the exe-several particution thereof, or as soon thereafter as possible, be entered by the culars, to be grantee in the minute book of the register of sasines at Edinburgh, of the date on which such note or memorandum is presented, and also minute book of the register, of upon the margin of the entry in the register of sasines, general or par-sasines within ticular, of the last instrument of sasine in the property of the lands or 14 days after heritages alienated, recorded in such register; and such entries shall be execution

so made without fee or reward payable therefor.

XI. That all sums to be received under the authority of this act, for Application of or in respect of any sales, or for equality of exchange on any exchange purchase of any of the said lands or other property or subjects to which this act monies. relates, shall be applied in the payment of the purchase monies on the purchase of any lands or other property or subjects under the authority of this act, or in the purchase of any lease of any part of the lands and other property or subjects of the crown which may be bought in under the authority of this act, and in payment of the monies to be paid for equality of exchange on any exchange to be made under the authority of this act, and of the expences of the said commissioners of his Majesty's woods, forests, land revenues, works and buildings in or relating to such purchases and exchanges, and in the payment of the monies to be paid for the redemption or purchase of any land tax which may be redeemed or purchased by the said commissioners, and of the expences. of the said commissioners in or relating to such purchase or redemption, and in the discharge of any incumbrances or burthens which now or hereafter are or may be charged upon or affect any of the said lands or other property and subjects of the crown to which this act

XII. That it shall be lawful for the said commissioners for the time Sums not imbeing of his Majesty's woods, forests, land revenues, works and build-mediately ings to cause any sums which shall be received for or in respect of any wanted, to be sales or exchanges of any of the lands or other property or subjects of invested in the the crown to which this act relates, and which may not be immediately public funds. wanted for the purposes to which the same are hereby made applicable, to be laid out in the meantime in the purchase of three pounds per centum consolidated bank annuities, or three pounds per centum reduced bank annuities, in the name of the lord high treasurer, or the com-

thereof.

No. VIII. c. 69.

missioners of his Majesty's treasury, in which name the governor and 3 & 4 W. 4, company of the bank of England are hereby authorized and required to permit transfers to be made of the annuities to be so purchased, and such transfers shall be accepted by the said commissioners of his Majesty's woods, forests, land revenues, works and buildings in the name and on behalf of the said lord high treasurer, or the said commissioners of his Majesty's treasury.

Dividends of bank of England placed to credit of the commissioners.

XIII. That the amount of the dividends of the stocks and annuities stocks and an- to be purchased as last aforesaid shall from time to time, as the said nuities to be by dividends shall become due, be placed by the governor and company of the bank of England to the credit of the said commissioners of his Majesty's woods, forests, land revenues, works and buildings in their account with the bank; and so much of the dividends as shall have become due in respect of stocks purchased with monies which shall have arisen from the sale or exchange of any of the lands or other property and subjects of the crown to which this act relates shall be applied and disposed of by the said commissioners in the same manner and for the same purposes as and considered in all respects as part of the annual income of the lands and other property and subjects of the crown in Scotland.

Commissioners out all or any such stocks or expedient.

XIV. That when and so often as it shall be necessary or expedient to of treasury au- raise by sale of any of the stocks or annuities so to be purchased as thorized to sell aforesaid any sum of money for the purposes to which monies to be received under the authority of this act from sales or exchanges of any of the lands and other property and subjects of the crown are hereby annuities, when respectively made applicable, it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, to sell out all or any part of the said stocks or annuities; and the sums raised by the sale of the said stocks and annuities shall be paid into the bank of England, and be placed to the credit of the said commissioners of his Majesty's woods, forests, land revenues, works and buildings, to be applied and disposed of by the said commissioners in the same manner and for the same purposes as and considered in all respects as part of the sums to be received under the authority of this act for or in respect of any sales or exchanges of any of the lands and other property and subjects of the crown in Scotland.

Transfer of stock.

XV. That all sums of stock which shall be sold by the said lord high treasurer or the commissioners of his Majesty's treasury, under the provisions herein-before contained, may be transferred by any person to be appointed by him or them for that purpose by any letter of attorney under the hand and seal of the said lord high treasurer, or under the hands and seals of any three of the said commissioners, for the time being, and attested by two or more credible witnesses; and the said governor and company of the bank of England shall and they are hereby authorized and required to permit all such transfers to be so made.

Application of the annual in-

XVI. That the annual income of all the said lands and other property and subjects of the crown to which this act relates, and all sums recome to which ceived in respect of feus, leases, or otherwise, for or in respect of the this act relates. said lands and other property and subjects (except from sales or exchanges), shall be applied in manner following; (that is to say,) in the first place, in payment of the costs, charges, and expences attending the management of the said lands and other property and subjects of the crown; in the next place, in payment and discharge of any annual sum or sums of money or any pensions already lawfully charged or to be charged thereon respectively, and in the payment of any other principal sum and the interest of any principal sum or sums of money already or which may be hereafter lawfully charged upon the said lands and as aforesaid, to other property and subjects; and, subject to the applications aforesaid, the said annual income shall, during the life of his present Majesty, be and made part carried to and made part of the consolidated fund of the united kingof consolidated dom of Great Britain and Ireland, and from and after the demise of his

Anuual incomo, subject be carried to

nd.

present Majesty (whom God long preserve) shall be payable and paid to No. VIII.

the king's Majesty, his heirs and successors.

XVII. That the said commissioners for the time being of his Majesty's woods, forests, land revenues, works, and buildings may, so long as they shall find it necessary so to do, keep an account with any Commissioners of the chartered banks in Scotland; and the said commissioners, may keep acobserving the rules and regulations hereby or by the said act passed in counts with any the tenth year of his late Majesty king George the fourth prescribed, of the chartershall not be answerable, either collectively or individually, for any ed banks of money which they the said commissioners shall have paid into the said Scotland. banks, or any of them, or any branch thereof.

XVIII. That the passing of this act shall not vacate the appointment Not to vacate of any chamberlain or collector of the revenues and profits of any of his the appoint-Majesty's lands or other property or subjects to which this act relates, ment of any or to vacate, render void or voidable any security given by or for such chamberlain or chamberlain or collector, but every such chamberlain or collector who collector of the shall be in office at the time of the passing of this act shall continue in revenues to office until his death or resignation, or until he shall be removed by the which this act commissioners for the time being of his Majesty's woods, forests, land relates, or to revenues, works, and buildings, or until his appointment shall cease security given under the provisions herein contained or referred to; and any security by or for him. given for the good conduct of such chamberlain or collector shall stand and remain as a security for the due discharge and performance by him

of the duties hereby imposed upon him.

XIX. And whereas certain retour duties, casualties, and other duties Retour duties. and rents pertaining to the land revenues of the crown and prince and &c. no longer steward of Scotland, have hitherto been received by the officers of the to be received courts of justice, or by the sheriffs of the counties, shires, or stewartries by officers of of Scotland respectively; and it will be most convenient that the same courts of jusshould be collected and received by the agents or collectors thereof tice, or by sheappointed or to be appointed under the provisions of this act; be it lectors espetherefore further enacted, That when and so soon as such agents or cially apcollectors shall be appointed, such retour duties, casualties, and other pointed. duties and rents, pertaining to the land revenues of the crown and prince and steward of Scotland, shall no longer be collected by the officers of the courts of justice, or by the sheriffs or other officers who have heretofore collected and received them, but shall be collected and received by the collectors to be for that purpose appointed; and such Fees as heretocollectors shall be entitled to demand and receive the same fees which fore. the said officers of the courts of justice, sheriffs, or other officers have heretofore been entitled to demand and receive upon the payment of any of the said retour duties, casualties, or other duties or rents respectively.

XX. That all the powers and provisions in this act contained shall tend to the extend, and be held and construed to extend, to the lands, revenues, lands, &c. of and other property and subjects of the prince and steward of Scotland; the prince and the annual income thereof, or the monies to arise by the sale or other steward of disposition thereof, to be applied and appropriated by the said commis-Scotland; sioners of his Majesty's woods, forests, land revenues, works, and Income to be buildings to and for such purposes and in such manner as the same are applied as at

now by law applicable.

XXI. Provided always, That nothing herein contained shall extend or Saving of be construed to extend to abridge or interfere with any rights of his rights. Majesty, his heirs or successors, or of the lord high treasurer or the commissioners of his Majesty's treasury, or the chancellor of the exchequer, for the time being, or any grantee of the crown, in respect of any appointment lawfully made by his Majesty or the said lord high taeasurer or commissioners, or the chancellor of the exchequer, or such grantee, previously to the passing of this act.

XXII. That it shall and may be lawful for the said commissioners of Commissioners his Majesty's woods, forests, land revenues, works, and buildings to may sue and be

3 & 4 W. 4, c. 69.

sibility of commissioners.

c. 69. sued in the name of the

No. VIII. sue and be sued in any court of law in Scotland in the name of his 3 & 4 W. 4, Majesty's lord advocate of Scotland for the time being; and it is hereby declared, that service of any legal proceedings upon the said lord advocate, and an intimation of such service to the said commissioners by letter addressed to the first commissioner of woods, forests, land revenues, works, and buildings, London, and put into the General lord advocate. Post Office, shall be deemed and held to be sufficient service on the said Service of pro- commissioners, any law or practice to the contrary notwithstanding.

SCHEDULE to which this Act refers.

Form of Conveyance on Sales by the Commissioners of his Majesty's Woods, Forests, Land Revenues, Works, and Buildings.

To all and sundry to whose knowledge these presents shall come: Know ye, That we whose names are inserted in the testing clause of these presents, two of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, on behalf of his Majesty, and under the authority of an act passed [here insert the title of this act, in consideration of the sum of paid by E. F. [here describe mode of payment], have sold, alienated, and in feu farm disponed, as we by these presents, on behalf of his Majesty, sell, alienate, and in feu farm dispone, from his Majesty, his heirs and successors, to and in favour of the said E. F., his heirs and assignees whomsoever, heritably and irredeemably, all and whole the lands of [here describe the lands or other subjects sold], [if teinds are sold without lands, here omit description of lands, and insert] all and whole the teinds, parsonage, and vicarage of the lands of pertaining [here insert name of owner], lying in the and sheriffdom of parish of with all burdens imposed or to be imposed thereon, lying within the parish of and shire of if the teinds, mills, and fiskings be also purchased with the lands, add] together with the whole teinds, both great and small, as well parsonage as vicarage thereof, with the mill of multures, sequels, and others thereto pertaining, and with the right of salmon-fishing in the river so far as the said river runs through or is bounded by the said lands [here insert any burdens, conditions, or reservations stipulated, to be holden and to hold the whole lands [if teinds only are conveyed, insert "teinds"] and others above specified by the said E. F. and his foresaids, of his Majesty, his heirs and successors, superiors of the same, in Free Blench farm, fee, and heritage for ever, giving therefore yearly a penny Scots money at Whitsunday yearly, if asked only in name of Blench farm. It witness whereof we of the commissioners aforesaid, have hereunto set our hands this eighteen hundred day I. K. Witness. A. B.

Form of Receipt and Declaration.

G. H. Witness.

Received by us, two of the commissioners of his Majesty's woods forests, land revenues, works, and buildings, on behalf of his Majesty, from *B*. *F*. the sum of being the consideration money paid by him for the feu duty [or any other duty specified] payable to his Majesty for and furth of the lands of

pertaining to the said

C. D.

E. F.; of which feu duty [or other duty] the said E. F., his heirs and No. VIII. assigns, are hereby for ever discharged: Hereby declaring, that in any 3 & 4 W. 4, renewal of the investiture of the said lands on behalf of his Majesty, this shall be a sufficient warrant to the barons of the court of exchequer in Scotland, and all others, to grant such renewed investiture in the form of a blench holding.

c. 69.

Witness our hands this I. K. Witness. G. H. Witness.

day of

A. B. C. D.

[No. IX.] 3 and 4 W. IV. c. 81.—An Act to authorize the Application of Part of the Land Revenue of the Crown for providing Fixtures, Furniture, Fittings, and Decorations for Buckingham Palace. [28th August 1833.]

WHEREAS by an act passed in the tenth year of the reign of his late Majesty king George the fourth, intituled An Act to consolidate and 10 G. 4, c. 50. amend the Laws relating to the Management and Improvement of His Majesty's Woods, Forests, Parks, and Chases; of the Land Revenue of the Crown within the Survey of the Exchequer in England; and of the Land Revenue of the Crown in Ireland; and for extending certain Provisions relating to the same to the Isles of Man and Alderney, it was enacted that all the land revenues whatsoever (advowsons of churches and vicarages only excepted) which belonged to his Majesty within the ordering or survey of the court of exchequer in England or Wales, in Ireland, in the Isle of Man and its dependencies, and the Isle of Alderney, should be under the management of the commissioners of his Majesty's woods, forest, and land revenues, and of their successors; and it was thereby further enacted, that the annual income of all the said possessions and land 'revenues of the crown to which that act related, including fines on leases, and all other sums received in respect of such leases, or otherwise for or in respect of the said possessions and land revenues (except from sales or exchanges), should be applied in manner following; that is to say, in the first place, in payment of the costs, charges and expences attending the management of the said possessions and land revenues; in the next place, in the payment and discharge of any annual sum or sums of money, or any pensions, then already charged or to be charged thereon respectively, and in the payment of any other principal sum, and the interest of any principal sum or sums of money which was then already or might be thereafter charged upon the said possessions and land revenues; in the next place, so much of the monies to arise from the said annual income as the lord high treasurer or the commissioners of his Majesty's treasury for the time being should from time to time think proper should be applied towards the payment and discharge of the costs, charges, and expences of the repairs, alterations, and improvements of Buckingham-house, and the buildings, offices, and grounds appertaining and belonging thereto, provided that the sum to be so applied under the now reciting act to such repairs, alterations, and improvements should not exceed the sum of one hundred and fifty thousand pounds, over and above the sum of three hundred and forty-six thousand pounds which had been then already applied thereto previous to the passing of the now reciting act; and, subject to the applications aforesaid, the said annual income should during the life of his then present Majesty be carried to and made part of the consolidated fund of the united kingdom of Great Britain and Ireland, and from and after the demise of his then present Majesty should be payable and paid to the king's Majesty, his heirs and successors: And whereas by an act passed in the first year of the reign of his present Majesty, intituled An Act for the Support of His Majesty's 1 W. 4, c. 25.

No. IX. c. 81.

2 W. 4, c. 1.

Household, and of the Honor and Dignity of the Crown of the United 3 & 4 W. 4, Kingdom of Great Britain and Ireland, it was (amongst other things) enacted, that the produce of the hereditary rates, duties, payments, and revenues in England and Ireland respectively therein mentioned, which at the time of the decease of his late Majesty king George the fourth made part of the consolidated fund of the united kingdom of Great Britain and Ireland, and also the small branches of the hereditary revenue, and the produce of the hereditary casual revenues, therein mentioned, which had accrued since the decease of his said late Majesty, and which should not have been applied and distributed in the payment of any charge thereupon respectively, or which should accrue during the life of his present Majesty, should be carried to and made part of the consolidated fund of the united kingdom of Great Britain and Ireland, and after the decease of his present Majesty all the said hereditary revenues, including the duties on beer, ale, and cider, should be payable and paid to his heirs and successors: And whereas by an act passed in the second year of the reign of his present Majesty, intituled An Act for uniting the Office of the Surveyor General of His Majesty's Works and Public Buildings with the Office of the Commissioners of His Majesty's Woods, Forests, and Land Revenues and for other Purposes relating to the Land Revenues, it was enacted, that it should be lawful for his Majesty, his heirs and successors, by letters patent under the great seal, to appoint, in the place of the commissioners of his Majesty's woods, forests, and land revenues, and of the surveyor general of his Majesty's works and public buildings, any persons, not exceeding three in number, to be commissioners for performing the duties and exercising the powers then performed and exercisable by the commissioners of his Majesty's woods, forests, and land revenues, and the duties and powers then performed and exercisable by the surveyor general of his Majesty's works and public buildings, and that the persons so first appointed and their successors should be called "The Commissioners of his Majesty's Woods, Forests, Land Revenues, Works and Buildings;" and the said commissioners were by the said act empowered to exercise and carry into effect all the powers and provisions contained in the said recited act of the tenth year of the reign of his late Majesty king George the Fourth, either expressly or by reference to any other acts: And whereas the repairs, alterations, and improvements of Buckingham palace, and the buildings, offices, and grounds appertaining thereto, in which the said sum of one hundred and fifty thousand pounds was by the said recited act of the tenth year of the reign of his late Majesty king George the Fourth authorized and directed to be laid out and expended, are nearly completed and finished; and in order to render the said palace a suitable residence for his Majesty it is expedient that a certain portion of the produce arising to his Majesty by the rents of messuages, lands, and other hereditaments in England and Ireland, and by the fines on leases of the same, or any of them now forming part of the hereditary revenues belonging to his Majesty in right of his crown, under the care and management of the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, by virtue of the said recited acts of the tenth year of the reign of his late Majesty and the second year of the reign of his present Majesty, should be made applicable, by and with the consent and approbation of the lord high treasurer or the commissioners of his Majesty's treasury for the time being, to the purpose of defraying the costs, charges, and expences of completing and perfecting the finishings of the said palace, and of providing fixtures, furniture, and decorations A sum not ex- necessary and requisite for the same: Be it therefore enacted, &c. That it shall be lawful for the said lord high treasurer or the commissioners of his Majesty's treasury for the time being, or any three of them, from paid out of the time to time to direct and authorize the commissioners of his Majesty's hereditary land woods, forests, land revenues, works, and buildings to pay and apply,

ceeding 55,000*l*. to be revenues of the out of the produce of the said hereditary land revenues of the crown crown for ex-

now under their care and management as aforesaid, such sum or sums of money as they shall think necessary and expedient, not exceeding in 3 & 4 W. 4, the whole the sum of fifty-five thousand pounds, towards the payment and discharge of the costs, charges, and expences of such finishings, fixtures, furniture, and decorations.

pences of finishings, fixtures, and furniture of Buckingham palace.

No. IX.

II. That the payment of such sum or sums of money herein-before Such payments authorized to be made shall be prior to and take precedence of the pay- to have precement or application of any sum or sums of money arising from the said dence of all land revenues for the purposes of the consolidated fund; but that the others arising said land revenues shall nevertheless remain subject and liable to the from the land costs and charges attending the management thereof, and the payment revenues. or discharge of any sum or sums of money, or any pensions, which may be now already charged thereon, or to the payment whereof the same now are or may hereafter become liable under or by virtue of any act or acts of parliament relating to the said land revenues, any act or acts of parliament relating to or concerning the said revenues to the contrary thereof in anywise notwithstanding.

[No. X.] 4 & 5 W. IV. c. 59.—An Act to extend the Term of an Act of the First and Second Years of his present Majesty, for ascertaining the Boundaries of the Forest of Dean, and for inquiring into the Rights and Privileges claimed by Free Miners of the Hundred of Saint Briavel's, to the Twenty-first Day of January One thousand eight hundred and thirty-five, and from thence to the End of the then next Session of Parliament. [13th August 1834.]

WHEREAS an act was passed in the first and second years of the reign of his present Majesty, intituled An Act for ascertaining the 1 & 2 W. 4, Boundaries of the Forest of Dean, and for inquiring into the Rights c. 12. and Privileges claimed by Free Miners of the Hundred of Saint Briavel's, and for other Purposes: And whereas the commission directed by the said recited act to be issued under the great seal of his Majesty's court of exchequer bears date the twenty-first day of January one thousand eight hundred and thirty-two: And whereas the time within which the commissioners were by the said recited act directed to make their reports to the lord high treasurer or lords commissioners of his Majesty's treasury was enlarged by an act passed in the third and fourth years of the reign of his present Majesty, intituled An Act to extend to 3 & 4 W. 4, the twenty-first Day of January one thousand eight hundred and thirty- c.38. four, and to the end of the then next Session of Parliament, the time for carrying into execution an Act of the First and Second Years of his present Majesty, for ascertaining the Boundaries of the Forest of Dean, and for inquiring into the Rights and Privileges claimed by Free Miners of the Hundred of Saint Briavel's, and for other Purposes: And whereas it is expedient that the time for making the said several reports should be further enlarged: Be it therefore enacted, &c., That the time for making Time for makthe several reports directed to be made by the said commissioners under ing reports unthe authority of the said recited act of the first and second years of the der 1 & 2 W. 4, the authority of the said recited act of the first and second years of the extended for reign of his present Majesty shall be extended until the twenty-first day extended for of January one thousand eight hundred and thirty-five, and from thence 21st Jan. 1835. to the end of the then next session of parliament.

II. That all the powers, provisions, authorities, regulations, direc- Powers of 1 & tions, clauses, penalties, forfeitures, matters, and things in the said 2 W. 4, c. 12. recited act of the first and second years of the reign of his present extended to this Majesty contained, shall extend and be construed to extend to this act. present act, and shall operate and be in force during the said additional period, as fully and effectually to all intents and purposes as if the same

No. X. c. 59.

powers, authorities, provisions, regulations, directions, clauses, penalties, 4 & 5 W. 4, forfeitures, matters, and things were particularly repeated and reenacted in the body of this act, and made expressly applicable thereto, and as if the time for the making of the said several reports by the said commissioners as aforesaid had been therein originally extended to the said additional period.

> [No. XI.] 5 & 6 W. IV. c. 58.—An act to amend the Acts relating to the Hereditary Land Revenues of the Crown in [9th September 1835.] Scotland.

> WHEREAS, &c. [Recite the titles of the 6 G. 4, c. 17; 10 G. 4, c. 50; 2 W. 4, c. 1; 2 & 3 W. 4, c 112; 3 & 4 W. 4, c. 69]: And whereas doubts have arisen, in consequence of the said acts, as to the powers and authorities of the commissioners of his Majesty's treasury in relation to the recovery, management, superintendence, and disposition of the interests of his Majesty, his heirs and successors, in right of his crown, as ultimus Hæres, and in cases of bastardy, in Scotland; and it is expedient that such doubts should be removed: Be it therefore declared and enacted, &c., That all powers and authorities for the ascertaining and recovering, and for the management, superintendence, and care of all rights and interests of his Majesty, his heirs and successors, in right of his crown, in Scotland, as ultimus Hæres, or in cases of bastardy, or by reason of any forfeiture whatsoever, shall be and are hereby declared to be vested in the lord high treasurer or the commissioners of his Majesty's treasury, or any three or more of them, for the time being, in the same manner and to the same extent as such powers and authorities were vested in the lord high treasurer or the commissioners of the treasury for the time being prior to the passing of any of the said recited acts; any thing in the said acts or either of them to the contrary notwithstanding.

lord high treasurer or the commissioners of the treasury.

All former acts

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Powers to be

vested in the

II. And be it further declared and enacted, That all grants heretofore of commission-made, and all acts, matters, and things, done by the commissioners of ers of the trea- his Majesty's treasury, or any three or more of them, in relation to any such rights and interests in Scotland, since the passing of the said recited acts of the second and third years and of the third and fourth years of the reign of his present Majesty, in exercise of the powers and authorities vested in them by law or usage prior to the passing of any of the said acts, shall be and are hereby declared to be good, valid, and effectual to all intents and purposes, any thing in the said recited acts or either of them, or of any other act or acts of parliament, to the contrary notwithstanding.

His Majesty for churches, revenues in Scotland.

III. And whereas the said last-recited act does not enable his Mamay grant sites jesty to grant any land or building, part of the possessions and land revenues of the crown in Scotland, for the purposes specified in the &c. out of land said recited act of the tenth year of the reign of his late Majesty king George the fourth with respect to the possessions and land revenues of the crown to which that act relates; and it is desirable that his Majesty, his heirs and successors, should be at liberty to grant any lands or hereditaments, part of the possessions and land revenues of the crown in Scotland, for any of the purposes herein mentioned, whenever he or they shall be graciously pleased so to do: Be it therefore enacted, That the king's Majesty, his heirs and successors, shall at any time hereafter have full power and authority, out of the possessions and land revenues of the crown in Scotland, to give and grant to and vest in any body politic or corporate, or any person or persons whomsoever, and their heirs and successors respectively, for such estate or interest therein as to his Majesty, his heirs and successors, shall seem meet, any building proper to be used as or converted into, or any ground proper for the site of, any church or chapel, with or without a cemetery or burial

No. XI.

c. 58.

ground thereto, or any ground proper for a cemetery, or burial ground to any church or chapel, and any house with its appurtenances, 5 & 6 W. 4, and with or without a garden thereto, proper for the residence of the spiritual person who may serve such church or chapel, or any ground proper for the site or sites of any such residence, or of any parochial or district school, with or without a garden thereto, any thing in the said act of the third and fourth years of the reign of his present Majesty, or any other law or statute, to the contrary in anywise notwithstanding; and such body or bodies politic or corporate, or person or persons, and their heirs, successors, executors, or administrators, shall have full capacity and ability to take, hold, and enjoy the same; and whenever it shall be the pleasure of his Majesty, his heirs or successors, to make a grant for any of the purposes aforesaid, it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury for the time being, or any three or more of them, to issue a warrant under his or their hand or hands to any such body or bodies politic or corporate, or person or persons as aforesaid, which warrant shall be exempt from Limitation of any stamp duty whatsoever: Provided always, That nothing in this act grants. contained shall extend or be construed to extend to enable his Majesty, his heirs or successors, to grant more than five statute acres in any one grant for any of the purposes aforesaid, or to grant any premises in any one instance which shall exceed in value the sum of one thousand pounds; and that all such grants shall be carried into effect by charters and other instruments, according to the law and practice of Scotland, and not otherwise.

IV. That a minute or docket of every such grant or warrant shall be preserved. entered and preserved by the commissioners of his Majesty's woods, forests, land revenues, works, and buildings, in their office.

V. Provided always, That the commissioners of his Majesty's woods, of woods, in forests, land revenues, works, and buildings for the time being shall, their reports, to in every report which shall be made by them to the king's most excel- certify all lent Majesty and to both houses of parliament touching or concerning grants made the land revenue of the crown, from and after the passing of this act, certify and report every grant which shall have been made under and by virtue of the provisions of this act since the time of the making their last preceding report, and to whom and for what purpose the same shall have been made, and what land or ground shall be comprised therein, and all other particulars relating thereto.

Minutes to be

Commissioners

PART III.

Personal Property and Contracts.

- CLASS 1. Patents, Literary Property, &c.
 - 2. Trade, Navigation, Ship-owners, Mariners, and Fisheries.
 - 3. Insurance.
 - 4. Bills of Exchange and Promissory Notes.
 - 5. Usury.
 - 6. Annuities.
 - 7. Gaming.
 - 8. Stock-Jobbing.
 - 9. Sale of Offices.
 - 10. Buying of Titles.
 - 11. Transfer of Stock.
 - 12. Restitution of Stolen Property.
 - 13. Executors and Administrators.
 - •14. Sales.
 - *15. Saving Banks.

(* New Titles.)

CLASS. I.

PATENTS, LITERARY PROPERTY, PROPERTY IN PRINTS, BUSTS, AND PATENTS OF MANUFACTURES.

[No. I.] 3 W. IV. c. 15.—An Act to amend the Laws relating to Dramatic Literary Property.

[10th June 1833.]

WHEREAS by an act passed in the fifty-fourth year of the reign of 54 G. 3, c. 156. his late Majesty king George the third, intituled An Act to amend the several Acts for the Encouragement of Learning, by securing the Copies and Copyright of printed Books to the Authors of such Books, or their Assigns, it was amongst other things provided and enacted, that from and after the passing of the said act the author of any book or books composed, and not printed or published, or which should thereafter be composed and printed and published, and his assignee or assigns,

No. I.

should have the sole liberty of printing and re-printing such book or books for the full term of twenty-eight years, to commence from the day 3 W.4, c. 15. of first publishing the same, and also, if the author should be living at the end of that period, for the residue of his natural life: And whereas it is expedient to extend the provisions of the said act; be it therefore enacted, &c., That from and after the passing of this act the author of The author of any tragedy, comedy, play, opera, farce, or any other dramatic piece or any dramatic entertainment, composed, and not printed and published by the author pieceshall have thereof or his assignee, or which hereafter shall be composed, and not as his property printed or published by the author thereof or his assignee, or the assig- the sole liberty nee of such author, shall have as his own property the sole liberty of it or causing it representing, or causing to be represented, at any place or places of to be represented. dramatic entertainment whatsoever, in any part of the United Kingdom ed at any place of Great Britain and Ireland, in the isles of Man, Jersey, and Guernsey, of dramatic or in any part of the British dominions, any such production as afore- entertainment. said, not printed and published by the author thereof or his assignee, and shall be deemed and taken to be the proprietor thereof; and that the author of any such production, printed and published within ten years before the passing of this act by the author thereof or his assignee, (1) or which shall hereafter be so printed and published, or the assignee of such author, shall, from the time of passing this act, or from the time of such publication respectively, until the end of twentyeight years from the day of such first publication of the same, and also, if the author or authors, or the survivor of the authors, shall be living at the end of that period, during the residue of his matural life, have as his own property the sole liberty of representing, or causing to be represented, the same at any such place of dramatic entertainment as aforesaid, and shall be deemed and taken to be the proprietor thereof: Pro- Proviso as to vided nevertheless, that nothing in this act contained shall prejudice, cases where alter, or affect the right or authority of any person to represent or cause previous to the to be represented, at any place or places of dramatic entertainment what- passing of this soever, any such production as aforesaid, in all cases in which the act, a consent author thereof or his assignee shall, previously to the passing of this has been given. act, have given his consent to or authorized such representation, but that such sole liberty of the author or his assignee shall be subject to such right or authority.

II. That if any person shall, during the continuance of such sole Penalty on liberty as aforesaid, contrary to the intent of this act, or right of the persons perauthor or his assignee, represent, or cause to be represented, without forming pieces the consent in writing of the author or other proprietor first had and contrary to this obtained, at any place of dramatic entertainment within the limits afore- act. said, any such production as aforesaid, or any part thereof, every such offender shall be liable for each and every such representation to the payment of an amount not less than forty shillings, or to the full amount of the benefit or advantage arising from such representation, or the injury or loss sustained by the plaintiff therefrom, whichever shall be the greater damages, to the author or other proprietor of such production so represented contrary to the true intent and meaning of this act, to be recovered, together with double costs of suit, by such author or other proprietors, in any court having jurisdiction in such cases in that part of the said United Kingdom or of the British dominions in which the offence shall be committed; and in every such proceeding where the sole liberty of such author or his assignee as aforesaid shall be subject to such right or authority as aforesaid, it shall be sufficient for the plaintiff to state that he has such sole liberty, without stating

⁽¹⁾ The assignee of the copyright of a dramatic work printed and published within ten years before the passing of this act (or subsequently to the act no express reservation of the exclusive right to the representation being made by the author), and not the author who has assigned such copyright, is entitled under the above section to the sole right of representing the piece, or causing it to be represented. Cumberland v. Planché, 3 Nev. & M. 587.

the same to be subject to such right or authority, or otherwise men-No. I. 3 W. 4, c. 15. tioning the same.

Limitation of actions.

III. Provided nevertheless, That all actions or proceedings for any offence or injury that shall be committed against this act shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of no effect.

Explanation of words.

IV. That whenever authors, persons, offenders, or others are spoken of in this act in the singular number or in the masculine gender, the same shall extend to any number of persons and to either sex.

[No. II.] 5 & 6 W. 4, c. 65.—An Act for preventing the Publication of Lectures without Consent.

[9th September 1835.]

WHEREAS printers, publishers, and other persons have frequently taken the liberty of printing and publishing lectures delivered upon divers subjects, without the consent of the authors of such lectures, or the persons delivering the same in public, to the great detri-Authors of lec-ment of such authors and lecturers: Be it enacted, &c., That from and after the first day of September one thousand eight hundred and thirtyassigns, to have five the author of any lecture or lectures, or the person to whom he hath sold or otherwise conveyed the copy thereof, in order to deliver the same in any school, seminary, institution, or other place, or for any other purpose, shall have the sole right and liberty of printing and publishing such lecture or lectures; and that if any person shall, by taking down the same in short hand or otherwise in writing, or in any publishing, &c. other way, obtain or make a copy of such lecture or lectures, and shall print or lithograph or otherwise copy and publish the same, or cause the same to be printed, lithographed, or otherwise copied and published, without leave of the author thereof, or of the person to whom the author thereof hath sold or otherwise conveyed the same, and every person who, knowing the same to have been printed or copied and published without such consent, shall sell, publish, or expose to sale, or cause to be sold, published, or exposed to sale any such lecture or lectures, shall forfeit such printed or otherwise copied lecture or lectures, or parts thereof, together with one penny for every sheet thereof which shall be found in his custody, either printed, lithographed, or copied, or printing, lithographing, or copying, published or exposed to sale, contrary to the true intent and meaning of this act, the one moiety thereof to his Majesty, his heirs or successors, and the other moiety thereof to any person who shall sue for the same, to be recovered in any of his Majesty's courts of record in Westminster by action of debt, bill, plaint, or information, in which no wager of law, essoign, privilege, or protection, or more than one imparlance, shall be allowed.

tures, or their the sole right of publishing them.

Penalty on other persons lectures without leave.

Penalty on lishers of newspapers publishing lectures without leave.

Persons having leave to attend lectures not on that account lish them.

Act not to prohibit the pub-

II. That any printer or publisher of any newspaper who shall, withprinters or pub- out such leave as aforesaid, print and publish in such newspaper any lecture or lectures, shall be deemed and taken to be a person printing and publishing without leave within the provisions of this act, and liable to the aforesaid forfeitures and penalties in respect of such printing and publishing.

III. That no person allowed for certain fee and reward, or otherwise, to attend and be present at any lecture delivered in any place, shall be deemed and taken to be licensed or to have leave to print, copy, and licensed to pub- publish such lectures only because of having leave to attend such

lecture or lectures.

IV. Provided always, That nothing in this act shall extend to prohibit any person from printing, copying, and publishing any lecture or lishing of lec- lectures which have or shall have been printed and published with tures after ex- leave of the authors thereof or their assignees, and whereof the time

No. II.

hath or shall have expired within which the sole right to point and publish the same is given by an act passed in the eighth year of the 5 & 6 W. 4, reign of queen Anne, intituled An Act for the Engagement of Learning, by vestiny the Copies of printed Books in the Authors or Purchasers of such Copies during the Times therein mentioned, and by another act piration of the passed in the fifty-fourth year of the reign of king George the third, inti-copyright. tuled An Act to amend the several Acts for the Encouragement of Learn- 8 Anne, c. 19. ing, by securing the Copies and Copyright of printed Books to the Authors 54G.8, c. 156. of such Books, ar their Assigns, or to any lectures which have been printed or published before the passing of this act.

V. Provided further, That nothing in this act shall extend to any Act not to exlecture or lectures, or the printing, copying, or publishing any lecture tend to lectures or lectures, or parts thereof, of the delivering of which notice in writing delivered in unshall not have been given to two justices living within five miles from licensed places. the place where such lecture or lectures shall be delivered two days at &c. the least before delivering the same, or to any lecture or lectures delivered in any university or public school or college, or on any public foundation, or by any individual in virtue of or according to any gift, endowment, or foundation; and that the law relating thereto shall

remain the same as if this act had not been passed.

[No. III.] 5 & 6 W. IV. c. 83.—An Act to amend the Law touching Letters Patent for Inventions.

[10th September 1835.]

WHEREAS it is expedient to make certain additions to and alterations in the present law touching letters patent for inventions, as well for the better protecting of patentees in the rights intended to be secured by such letters patent, as for the more ample benefit of the public from the same: Be it enacted, &c., That any person who, as Any person grantee, assignee, or otherwise, hath obtained or who shall hereafter having obtainobtain letters patent, for the sole making, exercising, vending, or using edletters patent of any invention, may, if he think fit, enter with the clerk of the pation may enter tents of England, Scotland, or Ireland, respectively, as the case may be, a disclaimer of having first obtained the leave of his Majesty's attorney general or solicitor general in case of an English patent, of the lord advocate or solicitor general of Scotland in the case of a Scotch patent or of his Majesty's attorney general or solicitor general of Scotland in the case of a Scotch patent or of his Majesty's attorney general or solicitor general of Scotland in the case of a Scotch patent or of his Majesty's attorney general or solicitor general of Scotland in the case of a Scotch patent or of his Majesty's attorney general or solicitor general or solicitor general of Scotland in the case of a Scotch patent or of his Majesty's attorney general or solicitor general or solicit citor general of Scotland in the case of a Scotch patent, or of his Ma- a memorandum jesty's attorney general or solicitor general for Ireland in the case of an of any altera-Irish patent, certified by his fiat and signature, a disclaimer of any part tion therein. of either the title of the invention or of the specification, stating the which, when reason for such disclaimer, or may, with such leave as aforesaid, enter filed, to be a memorandum of any alteration in the said title or specification, not deemed part of being such disclaimer or such alteration as shall extend the exclusive such specificaright granted by the said letters patent; and such disclaimer or memorandum of alteration, being filed by the said clerk of the patents, and enrolled with the specification, shall be deemed and taken to be part of such letters patent or such specification in all courts whatever: Provided Caveat may be always, that any person may enter a caveat, in like manner as caveats entered as hereare now used to be entered, against such disclaimer or alteration; tofore. which caveat being so entered shall give the party entering the same a right to have notice of the application being heard by the attorney general or solicitor general or lord advocate respectively: Provided also, Disclaimer not That no such disclaimer or alteration shall be receivable in evidence in to affect actions any action or suit (save and except in any proceeding by scire facias) pending at the pending at the time when such disclaimer or alteration was enrolled, time. but in every such action or suit the original title and specification alone shall be given in evidence, and deemed and taken to be the title and specification of the invention for which the letters patent have been or Attorney geneshall have been granted: Provided also, That it shall be lawful for the ral may require the party to ad-

Part III.

No. III. c. 83.

vertise his disclaimer.

Mode of proceeding where patentee is proved not to be the real inhe believed himself to be so.

attorney general or solicitor general or lord advocate, before granting 5 & 6 W. 4, such fiat, to require the party applying for the same to advertise his disclaimer or alteration in such manner as to such attorney general or solicitor general or lord advocate shall seem right, and shall, if he so require such advertisement, certify in his fiat that the same has been duly made.

II. That if in any suit or action it shall be proved or specially found by the verdict of a jury that any person who shall have obtained letters patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason of some other person or persons having invented or used the same, or some part thereof, before the ventor, though date of such letters patent, or of such patentee or his assigns shall discover that some other person had, unknown to such patentee, invented or used the same, or some part thereof, before the date of such letters patent, it shall and may be lawful for such patentee or his assigns to petition his Majesty in council to confirm the said letters patent or to grant new letters patent, the matter of which petition shall be heard before the judicial committee of the privy council; and such committee, upon examining the said matter, and being satisfied that such patentee believed himself to be the first and original inventor, and being satisfied that such invention or part thereof had not been publicly and generally used before the date of such first letters patent, may report to his Majesty their opinion that the prayer of such petition ought to be complied with, whereupon his Majesty may, if he think fit, grant such prayer; and the said letters patent shall be available in law and equity to give to such petitioner the sole right of using, making, and rending such invention as against all persons whatsoever, any law, usage, or custom to the contrary thereof notwithstanding: Provided, That any person opposing such petition shall be entitled to be heard before the said judicial committee: Provided also, That any person, party to any former suit or action touching such first letters patent, shall be entitled to have notice of such petition before presenting the same.

III. That if any action at law or any suit in equity for an account shall be brought in respect of any alleged infringement of such letters patent heretofore or hereafter granted, or any scire facias to repeal such letters patent, and if a verdict shall pass for the patentee or his assigns, or if a final decree or decretal order shall be made for him or them, upon the merits of the suit, it shall be lawful for the judge before whom such action shall be tried to certify on the record, or the judge who shall make such decree or order to give a certificate under his hand, that the validity of the patent came in question before him, which reother but shall cord or certificate being given in evidence in any other suit or action whatever touching such patent, if a verdict shall pass, or decree or depatentee, upon cretal order be made, in favour of such patentee or his assigns, he or a verdict in his they shall receive treble costs in such suit or action, to be taxed at three times the taxed costs, unless the judge making such second or other decree or order, or trying such second or other action, shall certify that

he ought not to have such treble costs.

costs. Mode of proof application for the proiongation of the term of a patent.

If in any action or suit a ver-

dict or decree

shall pass for

the patentee,

the judge may

grant a certifi-

being given in

evidence in any

cate, which

entitle the

favour, to re-

ceive treble

IV. That if any person who now hath or shall hereafter obtain any ceeding in case letters patent as aforesaid shall advertise in the London Gazette three times, and in three London papers, and three times in some country paper published in the town where or near to which he carried on any manufacture of any thing made according to his specification, or near to or in which he resides in case he carried on no such manufacture, or published in the county where he carries on such manufacture or where he lives in case there shall not be any paper published in such town, that he intends to apply to his Majesty in council for a prolongation of his term of sole using and vending his invention, and shall petition his Majesty in council to that effect, it shall be lawful for any person to enter a caveat at the council office; and if his Majesty shall refer the consideration of such petition to the judicial committee of the privy council, and notice shall first be by him given to any person or persons who

shall have entered such caveats, the petitioner shall be heard by his counsel and witnesses to prove his case, and the persons entering caveats shall likewise be heard by their counsel and witnesses; whereupon, and upon hearing and inquiring of the whole matter, the judicial committee may report to his Majesty that a further extension of the term in the said letters patent should be granted, not exceeding seven years; and his Majesty is hereby authorized and empowered, if he shall think fit, to grant new letters patent for the said invention for a term not exceeding seven years after the expiration of the first term, any law, custom, or usage to the contrary in anywise notwithstanding: Provided that no such extension shall be granted if the application by petition shall not be made and prosecuted with effect before the expiration of the term originally granted in such letters patent.

V. That in any action brought against any person for infringing any In case of acletters patent the defendant on pleading thereto shall give to the plaintiff, tion, &c. notice and in any scire facias to repeal such letters patent the plaintiff shall file of objections to with his declaration, a notice of any objections on which he means to be given. rely at the trial of such action, and no objection shall be allowed to be made in behalf of such defendant or plaintiff respectively at such trial unless he prove the objections stated in such notice: Provided always, That it shall and may be lawful for any judge at chambers, on summons served by such defendant or plaintiff on such plaintiff or defendant respectively to show cause why he should not be allowed to offer other objections whereof notice shall not have been given as aforesaid, to give leave to offer such objections, on such terms as to such judge

shall seem fit.

VI. That in any action brought for infringing the right granted by As to costs in any letters patent, in taxing the costs thereof regard shall be had to the actions for inpart of such case which has been proved at the trial, which shall be fringing letters certified by the judge before whom the same shall be had, and the costs patent. of each part of the case shall be given according as either party has succeeded or failed therein, regard being had to the notice of objections, as well as the counts in the declaration, and without regard to the general result of the trial.

VII. That if any person shall write, paint, or print, or mould, Penalty for cast, or carve, or engrave or stamp, upon any thing made, used, or using, unauthosold by him, for the sole making or selling of which he hath not or rised, the name shall not have obtained letters patent, the name or any imitation &c. of the name of any other person who hath or shall have obtained letters patent for the sole making and vending of such thing, without leave in writing of such patentee or his assigns, or if any person shall upon such thing, not having been purchased from the patentee or some person who purchased it from or under such patentee, or not having had the licence or consent in writing of such patentee or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark the word "Patent," the words "Letters Patent," or the words "By the King's Patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, or shall in any other manner imitate or counterfeit the stamp or mark or other device of the patentee, he shall for every such offence be liable to a penalty of fifty pounds, to be recovered by action of debt, bill, plaint, process, or information in any of his Majesty's courts of record at Westminster or in Ireland, or in the court of session in Scotland, one half to his Majesty, his heirs and successors, and the other to any person who shall sue for the same: Provided always, That nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "Patent" upon any thing made, for the sole making or vending of which a patent before obtained shall have expired.

No. III. 5 & 6 W. 4, c. 83.

of a patentee,

PART III.

CLASS II.

TRADE, NAVIGATION, SHIPOWNERS, MARINERS, AND FISHERIES.

[No. I.] 11 G. IV. & 1 W. IV. c. 45.—An Act to subject to Duties of Customs Goods the property of the Crown, in case of Sale after Importation. [16th July 1830.]

WHEREAS goods, wares, and merchandize, the property of the crown, are not by law subject to the payment of any duties of customs on importation into any part of his Majesty's dominions: And whereas it is expedient that such goods, wares, and merchandize, in the case of the sale thereof after importation, should be subject to the payment of such Goods, &c. the duties; be it therefore enacted, &c. That from and after the passing of property of the this act all goods, wares, and merchandize, the property of the crown, crown sold after shall, in case of the sale thereof after importation into this realm, be liable to and shall be charged with such and the same duties of customs as may be by law payable or charged on the like goods, wares, and merchandize, not being the property of the crown.

importation charged with duty.

> 11 G. IV. & 1 W. IV. c. 54.—An Act to revive, continue, and amend several Acts relating to the Fisheries. [16th July 1830.]

> Improvement of the British and Irish Fisheries, the said bounties, or such of them as were then existing, have been repealed, such repeal having

WHEREAS by an act passed in the forty-eighth year of the reign of his late Majesty king George the third, intituled An Act for the 48 G. 3, c. 110. further Encouragement and better Regulation of the British White Herring Fishery, until the First Day of June, One thousand eight hundred and thirteen, and from thence to the End of the then next Session of Parliament; and by another act passed in the fifty-fifth year of the reign of 55 G. 3, c. 94. his said late Majesty, intituled An Act to continue and amend several Acts relating to the British White Herring Fishery; and by another act passed in the first and second year of the reign of his late Majesty king George the fourth, intituled An Act to repeal certain Bounties granted for the 1 & 2 G. 4, Encouragement of the Deep Sea British White Herring Fishery, and to c. 79. make further Regulations relating to the said Fishery, certain regulations were made respecting the British white herring fisheries; and by the said acts various bounties were granted for the encouragement of the said fisheries: And whereas by the said act passed in the first and second year of the reign of his said late Majesty, and by an act passed in the fifth year of the reign of his late Majesty king George the fourth, 5 G. 4. 4, c. 64. intituled An Act to amend the several Acts for the Encouragement and Improvement of the British and Irish Fisheries; and by another act passed in the seventh year of the reign of his late Majesty king George 7 G. 4, c. 34. the fourth, intituled An Act to amend an Act of the Fifth Year of His present Majesty, for amending the several Acts for the Encouragement and

No. II.

taken effect upon and from the fifth day of April, one thousand eight hundred and thirty: And whereas doubts may arise whether the repeal 11 G. 4, & of the bounties aforesaid hath not rendered ineffectual certain of the pro- 1 W. 4, c. 54. visions and regulations of the before-mentioned acts of the forty-eighth and fifty-fifth years of the reign of his said late Majesty king George the third, and of the first and second years of the reign of his late Majesty king George the fourth, relative to the placing a mark or character on barrels containing herrings properly cured, and it is expedient to remove such doubts; be it therefore enacted and declared by, &c, That nothing in the said acts passed in the fifth and seventh years of Nothing in the the reign of his late Majesty king George the fourth hath repealed or acts 5 G. 4, rendered ineffectual so much of the said acts passed in the forty-eighth c. 64, & 7 G. 4, and fifty-fifth years of the reign of his late Majesty king George the c. 34, has rethird, and of the first and second year of the reign of his late Majesty pealed the king George the fourth, as relates to the placing a mark or character on powers of the barrels or half barrels containing herrings properly cured, save only so 48 and 55 G.3, far as respects the payment of any bounties therein mentioned; and and 1 & 2 G. 4. that, save and except so far as respects the said bounties, the said acts so far as they passed in the forty-eighth and fifty-fifth years of the reign of his said relate to marklate Majesty king George the third, and in the first and second years of ing or branding the reign of his late Majesty king George the fourth, with reference to barrels of herthe placing a mark or character on barrels containing herrings pro-rings. perly cured, and every other provision and regulation of the said acts which were in force on the said fifth day of April, one thousand eight hundred and thirty, are and is and shall be in full force, virtue, and effect, as though the said acts so passed in the fifth and seventh years of the reign of his late Majesty king George the fourth had not been

II. That if any person or persons shall ship or put on board any ship, Old barrels vessel, or boat about to be employed in the said fisheries any old employed in barrels or any old half barrels theretofore employed in the said fisheries the fisheries which at the time of such shipment shall bear any official brand there- with an old tofore affixed thereupon under and in pursuance of the said acts or any official brand to of them, or of this present act, or shall pack any herrings or other fish with their conin any such old barrels or half barrels, all such old barrels or any old tents. half barrels, and the herrings or other fish shall be forfeited.

III. And whereas by the said acts passed in the forty-eighth and Thedeclaration fifty-fifth years of the reign of his late Majesty king George the third required to be various oaths were required to be taken for the protection of his Ma-made on oath jesty's revenue, and it is no longer necessary that, with a view to that by recited acts object, such oaths should continue to be administered; be it therefore of 48 and 55 enacted, That all persons who, under and by virtue of the said recited G. 3, may be acts of the forty-eighth and fifty-fifth years of the reign of his late Ma-made on affirmjesty king George the third, were required to make any such declaration ation. or statement on oath, shall henceforth be admitted to make such declaration or statement on their, his, or her affirmation, and without oath; and if any person shall wilfully and corruptly make any such decla- Penalty for ration or statement falsely, every such person shall incur and become false declaraliable to a fine of not less than ten pounds nor more than twenty tion. pounds.

late Majesty king George the fourth, intituled An Act for the further regulating the Encouragement and Improvement of the British Fisheries, certain bounties trade of the cod were granted for the encouragement of the British cod and ling fisheries, and ling which bounties, by virtue of the said recited acts passed in the fifth and fisheries vested in the seventh years of the reign of his late Majesty, have ceased and in the commisdetermined: And whereas by the said act passed in the first year of the sioners by reign of his late Majesty, certain provisions were made, empowering the revived, except commissioners of the herring fishery to make certain regulations respect- so far as reing the said cod and ling fisheries: And whereas by an act passed in spects bounties.

intituled An Act to amend the several Acts for the Encouragement and Im-

the fifth year of the reign of his late Majesty king George the fourth,

IV. And whereas by an act passed in the first year of the reign of his The powers of

made.

No. 11. 11 G. 4, &

Recovery of forfeitures under this act.

The powers granted to the commissioners of the Irish fisheries by **59** G. 3, c. 109, gation.

Lord lieutenant may appoint additional directors;

who shall not be entitled to any salary.

Lord lieutenant may employ persons for completing piers begun, or for receiving repayment of loans, &c.

provement of the British and Irish Fisheries, the said act of the first year of his said late Majesty was repealed; and it is expedient that the 1 W. 4, c. 54. powers vested as aforesaid in the said commissioners (save so far only as respects the payment of the said bounties) should be revived, and be again vested in the said commissioners; be it therefore enacted, That so much of the said act passed in the first year of the reign of his late Majesty king George the fourth as authorized the said commissioners to make such regulations as aforesaid shall be and the same is hereby revived, and shall be continued in force, save only so far as respects the payment of the said bounties; any thing in the said act of the fifth year of his said Majesty's reign to the contrary notwithstanding.

V. That all penalties and forfeitures hereby imposed shall be sued for, recovered, and applied by such and the same persons, in such and the same manner, and to such and the same purposes, as any penalties and forfeitures incurred under the said acts of the forty-eighth and fifty-fifth years of the reign of his said late Majesty king George the third may be

sued for, recovered, mitigated, and applied.

VI. And whereas by an act passed in the fifty-ninth year of the reign of his late Majesty king George the third, intituled An Act for the further Encouragement and Improvement of the Irish Fisheries, the lord lieutenant or other chief governor or governors of Ireland was empowered to nominate and appoint persons to be commissioners specially for overseeing, shall be vested directing, and improving the fisheries of Ireland, to be called commisin the directors sioners of the Irish fisheries, for the purpose of executing the provisions of inland navi- of the said act for the period in the said act mentioned; and by an act passed in the seventh year of the reign of his late Majesty king George the fourth all the powers and authorities given by the said act of the fifty-ninth year of his said late Majesty's reign were continued in force until the fifth day of April one thousand eight hundred and thirty: And whereas for the purposes herein-after mentioned it is expedient that all the powers of the said commissioners of the Irish fisheries should be transferred to the directors of all works relating to inland navigation in Ireland, for the time being, appointed under and by virtue of an act of the parliament of Ireland, passed in the fortieth year of the reign of his said late Majesty king George the third, for promoting inland navigation in Ireland; be it therefore enacted, That from and after the passing of this act all and every right, title, and interest of the said commissioners of the Irish fisheries, and all powers and authorities vested in them in or by the said recited act of the fifty-ninth year of his said late Majesty, or in or by any other act or acts in force immediately before the said fifth day of April one thousand eight hundred and thirty, shall be transferred and conveyed to and the same are hereby vested in and shall be exercised by the directors of all works relating to inland navigation in Ireland, for the time being; and it shall be lawful for the lord lieutenant or other chief governor or governors of Ireland, for the time being, to nominate and appoint any person or persons to be director or directors of all works relating to inland navigation, for the purposes of this act, in addition to the number of directors of the said works at the time of the passing of this act: Provided always, That any such director or directors so to be nominated and appointed shall not be entitled to any salary, allowance, or emolument whatsoever as such director or directors.

VII. That it shall be lawful for the lord lieutenant or other chief governor or governors of Ireland, for the time being, to appoint and employ any persons heretofore appointed under the said recited act of the fifty-ninth year of his late Majesty, or any other act relating to the Irish fisheries, or to appoint and employ any other persons, for the completing the erection of any pier which shall have been begun, or for the repayment of any loans which shall have been advanced for the encouragement of the Irish fisheries, at any time previous to the fifth day of April one thousand eight hundred and thirty, under any act or acts in force immediately before that day, and in general for the managing and concluding of all concerns, matters, and things which shall have been commenced under the authority of the said commissioners of 11 G. 4, & the Irish fisheries, and which shall not have been brought to a con-1 W. 4, c. 54. clusion before the passing of this act; and every such person so to be appointed and employed shall obey such instructions and orders and directions as he shall from time to time receive from the said directors of inland navigation, or any two of them, of whom one shall be a person appointed by the lord lieutenant or other chief governor or governors of Ireland, for the purposes of this act, signified under their hands, or under the hand of their secretary or other proper officer for that purpose.

VIII. And whereas by the said recited act passed in the fifty-ninth Lord lieutenant year of the reign of his said late Majesty the lord lieutenant or other may, for five chief governor or governors of Ireland was authorized to direct the pay- years, order ment of any sum or sums of money, not exceeding eight thousand sums to be pounds in any one year, for the encouragement of the coast fisheries of consolidated ireland, and also salaries and allowances to the officers and persons fund for the employed in and about the execution of the said act; be it further purposes of this enacted, That it shall and may be lawful for the lord lieutenant or other act. chief governor or governors of Ireland, from time to time during the period of five years from and after the fifth day of April one thousand eight hundred and thirty, from time to time to direct any sum or sums of money, not exceeding the sum of four thousand five hundred pounds in the first year, and not exceeding the sum of three thousand five hundred pounds in the second year, and not exceeding the sum of two thousand five hundred pounds in the third year, and not exceeding the sum of one thousand five hundred pounds in the fourth year, and not exceeding the sum of one thousand pounds in the fifth year of the said period of five years, to be issued and paid to the directors of inland navigation out of the revenue of the consolidated fund arising in Ireland, to be applied in completing any piers which shall have been begun before the said fifth day of April one thousand eight hundred and thirty, and in paying such officers and persons as shall be necessarily employed in and about or relating to the completion of such piers, or in relation to the repayment of any loans made and lent before the said fifth day of April one thousand eight hundred and thirty, or in or about any matters relating to the said fisheries, and requisite to be done for fulfilling the purposes of this act.

IX. That the directors of inland navigation, or any two of them, of Directors of inwhom one shall be a person appointed by the lord lieutenant or other land navigation chief governor or governors of Ireland, for the purposes of this act, shall have all shall and may have, use, and exercise all such powers and authorities, and the powers of shall and may do all such matters and things, in and about the execution of this act, and for the carrying this act into execution, as the commissioners of the Irish fisheries might or could have had, used, exercised, or done under any act or acts in force relating to the Irish fisheries before the said fifth day of April one thousand eight hundred and thirty; and that all such acts shall remain and continue in force for the purposes of this act, and for the payment of all bounties which may have become payable at any time before the said fifth day of April one thousand eight hundred and thirty, and for the performance of all matters and things relating to such bounties: Provided always, That Not to revive nothing in this act contained shall extend or be construed to extend to the bounties. revive or continue the bounties by the said acts granted, or any of them.

No. II.

[No. III.] 11 G. IV. and 1 W. IV. c. 72.—An Act to allow, before the Fifth day of July one thousand eight hundred and thirty-one, Sugar to be delivered out of Warehouse to be refined. (1) [23rd July 1830.]

9 G. 4, c. 93.

Foreign sugar may be delivered to be refined until July 1831, on payment of the duties herein mentioned.

WHEREAS an act was passed in the ninth year of the reign of his late Majesty king George the fourth, intituled An Act to allow Sugar to be delivered out of Warehouse to be refined: And whereas another act was passed in the tenth year of the reign of his said late Majesty, 10 G. 4, c. 39. intituled An Act to continue until the fifth day of July one thousand eight hundred and thirty, the Provisions of an Act to allow Sugar to be delivered out of Warehouse to be refined: And whereas it is expedient to continue and amend the said first-recited act: Be it therefore enacted, &c., That upon the application of any person actually carrying on the business of a sugar refiner in the ports of London, Liverpool, Bristol, or Glasgow, and having two pans at least at work upon the same premises, it shall be lawful for the officers of the customs at those ports respectively, at any time before the fifth day of July one thousand eight hundred and thirty-one, to deliver to such person any quantity of foreign sugar, or of sugar the produce of the East Indies, not exceeding the quantity specified in the said first-recited act, to be by him refined, under the regulations, and upon the conditions, and in the manner in the said first-recited act directed, upon payment of the following duties, in lieu of the duties specified in the said act; (that is to say)—

DUTIES ON SUGAR DELIVERED TO BE REFINED.

£ s. d. Brown or Muscovado or clayed sugar, not being of greater value than the average price of sugar of the British plantations in America, the cwt 1 4 0 - and further, in respect of every shilling by which such sugar shall be of greater value than such average price, the cwt.....

And all and every the clauses, powers, and provisions, pains, penalties, and forfeitures, matters and things, contained in the said first-recited act, shall extend to this act, in as full and ample a manner, to all intents, constructions, and purposes, as if the same had been repeated and re-enacted in the body of this act, and had made part thereof.

[No. IV.] 1 W. IV. c. 24.—An Act to amend an Act of the Sixth year of his late Majesty to regulate the Trade of the British Possessions abroad. [16th July 1830.]

[No. V.] 2 & 3 W. IV. c. 79.—An Act to continue, until the Thirty-first day of December One thousand eight hundred and thirty-four, an Act of the Fifth year of his late Majesty relating to the Fisheries in Newfoundland. (5 G. IV. c. 51.) [1st August 1832.]

[No. VI.] 3 & 4 W. IV. c. 28.—An Act to repeal an Act of the Thirteenth year of his Majesty King George the First, for the better Regulation of the Woollen Trade.

[24th July 1833.]

WHEREAS an act was passed in the thirteenth year of the reign of his Majesty king George the first, intituled An Act for the better 13 G. 1. c. 23. Regulation of the Woollen Manufacture, and for preventing Disputes among the Persons concerned therein; and for limiting a Time for prosecuting for the Forfeiture appointed by an Act of the Twelfth Year of his Majesty's Reign, in case of Payment of the Workman's Wages in any other Manner than in Money: And whereas the said act is at this day not only unnecessary, but if enforced might be extremely injurious; and it is therefore expedient to repeal the same: Be it therefore enacted, Recited act re-&c., That the said recited act be and the same is hereby repealed.

- [No. VII.] 3 & 4 W. IV. c. 9.—An Act for incorporating the Members of a Society commonly called "The Seaman's Hospital Society" and their Successors, as therein is mentioned and provided, and for the better enabling and empowering them to carry on the charitable and useful Designs of the same Society.
- [No. VIII.] 3 & 4 W. IV. c. 50.—An Act to repeal the several Laws relating to the Customs. [28th August 1833.]
- [No. IX.] 3 & 4 W. IV. c. 51.—An Act for the management of the Customs. [28th August 1833.]
- [No. X.] 3 & 4 W. IV. c. 52.—An Act for the general [28th August 1833.] Regulation of Customs.
- [No. XI.] 3 & 4 W. IV. c. 53.—An Act for the Prevention [28th August 1833.] of Smuggling.
- [No. XII.] 3 & 4 W. IV. c. 54.—An Act for the Encouragement of British Shipping and Navigation. [28th August 1833.]

WHEREAS an act was passed in the sixth year of the reign of his late Majesty king George the fourth, intituled An Act for the 6 G. 4, c. 109. Encouragement of British Shipping and Navigation, whereby the laws for the encouragement of British shipping and navigation were consolidated and amended: And whereas since the passing of the said act divers acts for the further amendment of the law have been found necessary, and it will be of advantage to the trade and commerce of the country that the said acts should be consolidated into one act: Be it Commence-

ment of act.

No. XII. c. 54.

only enumerated goods of Europe may be imported.

Places from

which only

Africa, or

goods of Asia,

America may

be imported.

therefore enacted, &c., That this act shall commence upon the first day 3 & 4 W. 4, of September one thousand eight hundred and thirty-three, except where any other commencement is herein particularly directed.

II. That the several sorts of goods herein-after enumerated, being the Ships in which produce of Europe; (that is to say) masts, timber, boards, tar, tallow. hemp, flax, currants, raisins, figs, prunes, olive oil, corn or grain, wine, brandy, tobacco, wool, shumac, madders, madder roots, barilla, brimstone, bark of oak, cork, oranges, lemons, linseed, rape seed, and clover seed, shall not be imported into the united kingdom to be used therein, except in British ships, or in ships of the country of which the goods are the produce, or in ships of the country from which the goods are imported.

III. That goods, the produce of Asia, Africa, or America, shall not be imported from Europe into the united kingdom, to be used therein, except the goods herein-after mentioned; (that is to say)—

Goods, the produce of the dominions of the emperor of Morocco, which may be imported from places in Europe within the straits of Gibraltar:

Goods, the produce of Asia or Africa, which (having been brought into places in Europe, within the straits of Gibraltar, from or through places in Asia or Africa within those straits, and not by way of the Atlantic ocean) may be imported from places in Europe within the straits of Gibraltar:

Goods, the produce of places within the limits of the East India company's charter, which (having been imported from those places into Gibraltar or Malta in British ships) may be imported from Gibraltar or Malta:

Goods taken by way of reprisal by British ships:

Bullion, diamonds, pearls, rubies, emeralds, and other jewels or precious stones.

Ships in which only goods of Asia, Africa, or America may be imported.

IV. That goods, the produce of Asia, Africa, or America, shall not be imported into the united kingdom, to be used therein, in foreign ships, unless they be the ships of country in Asia, Africa, or America, of which the goods are the produce, and from which they are imported, except the goods herein-after mentioned; (that is to say)—

Goods, the produce of the dominions of the grand seignor, in Asia or Africa, which may be imported from his dominions in Europe, in ships of his dominions:

Raw silk and mohair yarn, the produce of Asia, which may be imported from the dominions of the grand seignor in the Levant seas, in ships of his dominions:

Bullion.

Manufacture deemed produce.

From Guernsey, &c.

Exports to Asia, &c. and to Guernsey. &c.

Coastwise.

Between Guernsey, Jetsey, &c.

V. Provided always, That all manufactured goods shall be deemed to be the produce of the country of which they are the manufacture.

VI. That no goods shall be imported into the united kingdom from the islands of Guernsey, Jersey, Alderney, Sark, or Man, except in British ships.

VII. That no goods shall be exported from the united kingdom to any British possession in Asia, Africa, or America, nor to the islands of Guernsey, Jersey, Alderney, Sark, or Man, except in British ships.

VIII. That no goods shall be carried coastwise from one part of the

united kingdom to another, except in British ships.

IX. That no goods shall be carried from any of the islands of Guernsey, Jersey, Alderney, Sark, or Man, to any other of such islands, nor from one part of any of such islands to another part of the same island, except in British ships.

X. That no goods shall be carried from any British possession in Between British possessions Asia, Africa, or America, to any other of such possessions, nor from one in Asia, &c. part of any of such possessions to another part of the same, except in British ships.

XI. That no goods shall be imported into any British possession in No. XII. Asia, Africa, or America, in any foreign ships, unless they be ships of 3&4W.4,c.54 the country of which the goods are the produce, and from which the goods are imported. Imports,into British possessions in Asia, &c.

XII. That no ship shall be admitted to be a British ship unless duly No ship Briregistered and navigated as such; and that every British registered tish, unless reship (so long as the registry of such ship shall be in force, or the certi-gistered, and ficate of such registry retained for the use of such ship) shall be navi-navigated as gated during the whole of every voyage (whether with a cargo or in such. ballast), in every part of the world by a master who is a British subject, and by a crew, whereof three-fourths at least are British seamen; and if such ship be employed in a coasting voyage from one part of the united kingdom to another, or in a voyage between the united kingdom and the islands of Guernsey, Jersey, Alderney, Sark, or Man, or from one of the said islands to another of them, or from one part of either of them to another of the same, or be employed in fishing on the coasts of the united kingdom or of any of the said islands, then the whole of the crew shall be British seamen.

XIII. Provided always, That all British-built boats or vessels under But vessels unfifteen tons burthen, wholly owned and navigated by British subjects, der fifteen tons although not registered as British ships, shall be admitted to be burthen ad-British vessels, in all navigation in the rivers and upon the coasts of mitted in navithe united kingdom, or of the British possessions abroad, and not pro-gation upon ceeding over sea, except within the limits of the respective colonial rivers, &c. governments within which the managing owners of such vessels re-registered. spectively reside; and that all British-built boats or vessels wholly vessels under owned and navigated by British subjects, not exceeding the burthen of 30 tons for owned and navigated by British subjects, not exceeding the builded of 30 tons for thirty tons, and not having a whole or a fixed deck, and being employed Newfoundland solely in fishing on the banks and shores of Newfoundland, and of the fishery, &c. parts adjacent, or on the banks and shores of the provinces of Canada, need not be Nova Scotia, or New Brunswick, adjacent to the gulf of Saint Law-registered. rence, or on the north of cape Canso, or of the islands within the same, or in trading coastwise within the said limits, shall be admitted to be British boats or vessels, although not registered, so long as such boats or vessels shall be solely so employed.

XIV. Provided also, That all ships built in the British settlements at Honduras ships Honduras, and owned and navigated as British ships, shall be entitled to be as British, to the privileges of British registered ships in all direct trade between in trade with the united kingdom or the British possessions in America and the said united kingdom settlements; provided the master shall produce a certificate under the and colonies in hand of the superintendent of those settlements, that satisfactory proof America. has been made before him that such ship (describing the same) was built in the said settlements, and is wholly owned by British subjects; provided also, that the time of the clearance of such ship from the said settlements for every voyage shall be endorsed upon such certificate by

such superintendent. XV. That no ship shall be admitted to be a ship of any particular Ship of any country, unless she be of the built of such country; or have been made foreign country prize of war to such country; or have been forfeited to such country to be of the under any law of the same, made for the prevention of the slave trade, built of, or and condemned as such prize or forfeiture by a competent court of such prize to such country; or be British built (not having been a prize of war from British-built, British subjects to any other foreign country); nor unless she be naviand owned and gated by a master who is a subject of such foreign country, and by a navigated by crew of whom three fourths at least are subjects of such country; nor subjects of the unless she be wholly owned by subjects of such country usually residing country. therein, or under the dominion thereof: Provided always, That the country of every ship shall be deemed to include all places which are under the same dominion as the place to which such ship belongs.

XVI. That no person shall be qualified to be a master of a British Master and seaship, or to be a British seaman within the meaning of this act, except men not Bri-

No. XII.

tural born or denizens, or subjects by conquest or cession, or having served in his Majesty's ships of war. Natives of India not to be British seamen.

One British seamen to twenty tons sufficient to constitute a proper clem.

Foreigners having served two years on board his Majesty's ship during war. to depart Bri-

If excess of each; except British seamen ports, or in India; or proportion destroyed unavoidably; and certificate produced or proof made.

Proportion of clamation.

Goods prohibited only by navigation law may be imported for exportation.

the natural-born subjects of his Majesty, or persons naturalized by any 3 & 4 W. 4, act of parliament, or made denizens by letters of denization; or except persons who have become British subjects by virtue of conquest or cession of some newly acquired country, and who shall have taken the tish, unless na- oath of allegiance to his Majesty, or the oath of fidelity required by the treaty or capitulation by which such newly acquired country came into naturalized, or his Majesty's possessions; or persons who shall have served on board any of his Majesty's ships of war in time of war for the space of three years: Provided always, That the natives of places within the limits of of the East India company's charter, although under British dominion, shall not, upon the ground of being such natives, be deemed to be British seamen: Provided always, That every ship (except ships required to be wholly navigated by British seamen) which shall be navigated by one British seaman, if a British ship, or one seaman of the country of such ship, if a foreign ship, for every twenty tons of the burthen of such ship, shall be deemed to be duly navigated, although the number of other seamen shall exceed one fourth of the whole crew: Provided always, That nothing herein contained shall extend to repeal or alter the provisions of an act passed in the fourth year of the reign of his late Majesty king George the fourth, for consolidating and amending the laws then in force with respect to trade from and to places within the limits of the East India company's charter.

XVII. Provided always, That it shall be lawful for his Majesty, by his royal proclamation during war, to declare that foreigners, having served two years on board any of his Majesty's ships of war in time of such war, shall be British seamen within the meaning of this act.

XVIII. That no British registered ship shall be suffered to depart any port in the united kingdom, or any British possession in any part of the British ship not world (whether with a cargo or in ballast), unless duly navigated: Provided always, that any British ships, trading between places in Ametish port unless rica, may be navigated by British negroes; and that ships trading duly navigated, eastward of the Cape of Good Hope within the limits of the East India company's charter may be navigated by Lascars, or other natives of

countries within those limits. XIX. That if any British registered ship shall at any time have, as foreign seamen, part of the crew in any part of the world, any foreign seaman not penalty 101. for allowed by law, the master or owners of such ship shall for every such foreign seaman forfeit the sum of ten pounds: Provided always, That if a due proportion of British seamen cannot be procured in any foreign cured in foreign port, or in any place within the limits of the East India company's charter, for the navigation of any British ship; or if such proportion be destroyed during the voyage by any unavoidable circumstance, and the master of such ship shall produce a certificate of such facts under the hand of any British consul, or of two known British merchants, if there be no consul at the place where such facts can be ascertained, or from the British governor of any place within the limits of the East India company's charter; or, in the want of such certificate, shall make proof of the truth of such facts to the satisfaction of the collector and controller of the customs of any British port, or of any person authorized in any other part of the world to inquire into the navigation of such ship, the same shall be deemed to be duly navigated.

XX. That if his Majesty shall, at any time by his royal proclamation, seamen may be declare that the proportion of British seamen necessary to the due navialtered by pro- gation of British ships shall be less than the proportion required by this act, every British ship navigated with the proportion of British seamen required by such proclamation shall be deemed to be duly navigated, so

long as such proclamation shall remain in force. XXI. Provided always, That goods of any sort or the produce of any place, not otherwise prohibited than by the law of navigation hereinbefore contained, may be imported into the united kingdom from any place in a British ship, and from any place not being a British possession in a foreign ship of any country, and however navigated, to be warehoused for exportation only, under the provisions of any law in No. XII. force for the time being, made for the warehousing of goods without 3 & 4 W. 4, payment of duty upon the first entry thereof.

XXII. That if any goods be imported, exported, or carried coastwise, contrary to the law of navigation, all such goods shall be forfeited, and Forfeitures the master of such ship shall forfeit the sum of one hundred pounds.

XXIII. That all penalties and forfeitures incurred under this act shall Recovery of be sued for, prosecuted, recovered, and disposed of, or shall be miti-forfeitures. gated or restored, in like manner as any penalty or forfeiture can be sued for, prosecuted, recovered, and disposed of, or may be mitigated or restored, under an act passed in the present session of parliament for the prevention of smuggling.

c. 54. how incurred.

[No. XIII.] 3 & 4 W. IV. c. 55.—An Act for the registering of British Vessels. (1) [28th August 1833.]

WHEREAS an act was passed in the sixth year of the reign of his late Majesty king George the fourth, intituled An Act for the registering 6 G.4, c. 110. of British Vessels, whereby the laws in relation to the registration of British vessels were consolidated and amended: And whereas since the passing of the said act divers acts for the further amendment of the law have been found necessary, and it will be of advantage to the trade and commerce of the country that the said acts should be consolidated into one act: Be it therefore enacted, &c., That this act shall commence Commenceupon the first day of September one thousand eight hundred and thirty- ment of act. three, except where any other commencement is herein particularly directed.

II. That no ship or vessel shall be entitled to any of the privileges or No vessel to advantages of a British-registered ship unless the person or persons enjoy privileges claiming property therein shall have caused the same to have been until registered. registered in virtue of the said act, or of an act passed in the fourth year of his said late Majesty's reign, intituled An Act for the registering 4 G. 4, c. 41. of British Vessels, or until such person or persons shall have caused the same to be registered in manner herein-after mentioned, and shall have obtained a certificate of such registry from the person or persons authorized to make such registry and grant such certificate as herein-after directed; the form of which certificate shall be as follows; videlicet,

* THIS is to certify, That in pursuance of an act passed in the fourth Form of certifiyear of the reign of king William the fourth, intituled An Act [here cate of registry. insert the title of this act, the names, occupation, and residence of the subscribing owners, having made and subscribed the declaration required by the said act, and having declared that [he or they] together with "[names, occupations, and residence of non-subscribing owners] [is or are] sole owner or owners, in the proportions specified on the back hereof. of the ship or vessel called the [ship's name] of [place to which the vessel belongs, which is of the burthen of [number of tons], and whereof master's name is master, and that the said ship or vessel was when " and where built, or condemned as prize, referring to builder's certificate,... 'judge's certificate, or certificate of last registry, then delivered up to be cancelled], and [name and employment of surveying officer] having cer-'tified to us that the said ship or vessel has [number] decks and [number] masts, that her length from the fore part of the main stem to the after * part of the stern post aloft is [number of feet and inches], her breadth * at the broadest part stating whether that be above or below the main • wales] is [number of feet and inches], her [height between decks if more than one deck, or depth in the hold if only one deck] is [number of feet and inches], that she is [how rigged] rigged with a [standing or running]

Controller.'

No. XIII. 3 & 4 W. 4, c. 55.

'bowsprit, is [description of stern] sterned, [carvel or clincher] built, has ' [whether any or no] gallery, and [kind of head, if any] head; and the 'said subscribing owners having consented and agreed to the above 'description, and having caused sufficient security to be given as is re-'quired by the said act, the said ship or vessel called the [name] has ' been duly registered at the port of [name of port]. Certified under our 'hands at the custom house in the said port of [name of port] this [date] ' day of [name of month] in the year [words at length]. Collector. [Signed]

And on the back of such certificate of registry there shall be an account of the parts or shares held by each of the owners mentioned and described in such certificate, in the form and manner following:

' Signed

'Names of the several owners within mentioned.						Number of sixty-fourth shares held by each owner.			
6	[Name	•				<u> </u>	_		Thirty-two.
6	Name	•		_	-	-	_	-	Thirty-two. Sixteen.
•	Name	-	•	-	-	1 -	-	_	Eight.
•	Name	•	•		-	-	-	-	Eight]
					•	'[Signed]			Collector.
						· S	igned	1	Controller.'

Persons authorized to make registry and grant certificates.

III. That the persons authorized and required to make such registry and grant such certificates shall be the several persons herein-after mentioned and described; (that is to say,)

dom and isle of Man.

In united king- The collector and controller of his Majesty's customs in any port in the united kingdom of Great Britain and Ireland, and in the Isle of Man respectively, in respect of ships or vessels to be there registered:

In Guernsey, &c.

The principal officers of his Majesty's customs in the island of Guernsey or Jersey, together with the governor, lieutenant governor, or commander in chief of those islands respectively, in respect of ships or vessels to be there registered:

In colonies in Asia, Africa, and America:

The collector and controller of his Majesty's customs of any port in the British possessions in Asia, Africa, and America, or the collector of any such port at which no appointment of a controller has been made, in respect of ships or vessels to be there registered:

East India company:

'In territories of The collector of duties at any port in the territories under the government of the East India Company, within the limits of the charter of the said company, or any other person of the rank in the said company's service of senior merchant, or of six years standing in the said service, being respectively appointed to act in the execution of this act by any of the governments of the said company, in respect of ships or vessels to be there registered:

within limits of the charter:

In other places The collector of duties at any British possession within the said limits, and not under the government of the said company, and at which a custom house is not established, together with the governor, lieutenant governor, or commander in chief of such possession, in respect of ships or vessels to be there registered:

In Malta, Gibraltar, &c.

The governor, lieutenant governor, or commander in chief of Malta, Gibraltar, Heligoland, and Cape of Good Hope respectively, in respect of ships or vessels to be there registered:

vessels regis-Gibralar, or Heligoland.

Limitation as to Provided always, That no ship or vessel to be registered at Heligoland, except such as is wholly of the built of that place, and that ships or tered at Malta, vessels, after having been registered at Malta, Gibraltar, or Heligoland, shall not be registered elsewhere; and that ships or vessels registered at Malta, Gibraltar, or Heligoland shall not be entitled to the privileges

and advantages of British ships in any trade between the said united No. XIII, kingdom and any of the British possessions in America: Provided also, 3 & 4 W. 4, That wherever in and by this act it is directed or provided that any act, matter, or thing shall and may be done or performed by, to, or with any collector and controller of his Majesty's customs, the same shall or may Certain powers be done or performed by, to, or with the several persons respectively of collectors herein-before authorized and required to make registry, and to grant and controllers, certificates of registry as aforesaid, and according as the same act, by whom to be matter, or thing is to be done or performed at the said several and res_exercised in pective places, and within the jurisdiction of the said several persons certain cases. respectively: Provided also, That wherever in and by this act it is Powers of comdirected or provided that any act, matter, or thing shall or may be done missioners of or performed by, to, or with the commissioners of his Majesty's cus- customs in toms, the same shall or may be done or performed by, to, or with the united kingdom governor, lieutenant governor, or commander in chief of any place given to where any ship or vessel may be registered under the authority of this governors, &c. act, so far as such act, matter, or thing can be applicable to the registering of any ship or vessel at such place.

IV. That in case any ship or vessel not being duly registered, and Ships exercisnot having obtained such certificate of registry as aforesaid, shall exer- ing privileges cise any of the privileges of a British ship, the same shall be subject to before registry forfeiture, and also all the guns, furniture, ammunition, tackle, and to be forfeited; apparel to the same ship or vessel belonging, and shall and may be seized by any officer or officers of his Majesty's customs: Provided but not to affect always, that nothing in this act shall extend or be construed to extend vessels registerto affect the privileges of any ship or vessel which shall prior to the ed under precommencement of this act have been registered by virtue of an act vious act. passed in the sixth year of the reign of his late Majesty king George the

fourth, intituled An Act for the registering British Vessels.

V. That no ship or vessel shall be registered, or having been regis. What ships are tered shall be deemed to be duly registered, by virtue of this act, except entitled to be such as are wholly of the built of the said united kingdom, or of the registered. Isle of Man, or of the islands of Guernsey or Jersey, or of some of the colonies, plantations, islands, or territories in Asia, Africa, or America, or of Malta, Gibraltar, or Heligoland, which belong to his Majesty, his heirs or successors, at the time of the building of such ships or vessels, or such ships or vessels as shall have been condemned in any court of admiralty as prize of war, or such ships or vessels as shall have been condemned in any competent court as forfeited for the breach of the laws made for the prevention of the slave trade, and which shall wholly belong and continue wholly to belong to his Majesty's subjects duly entitled to be owners of ships or vessels registered by virtue of this act.

VI. That no Mediterranean pass shall be issued for the use of any Mediterranean ship, as being a ship belonging to Malta or Gibraltar, except such as be pass may be isduly registered at those places respectively, or such as, not being en-sued at Malta titled to be so registered, shall have wholly belonged, before the tenth or Gibraltar day of October one thousand eight hundred and twenty-seven, and for certain shall have continued wholly to belong, to persons actually residing at ships only. those places respectively, as inhabitants thereof, and entitled to be owners of British ships there registered, or who, not being so entitled, shall have so resided upwards of fifteen years prior to the said tenth day

of October one thousand eight hundred and twenty-seven.

VII. That no ship or vessel shall continue to enjoy the privileges of a Foreign repairs British ship after the same shall have been repaired in a foreign not to exceed country, if such repairs shall exceed the sum of twenty shillings for 20s. per ton. every ton of the burthen of the said ship or vessel, unless such repairs shall have been necessary by reason of extraordinary damage sustained by such ship or vessel during her absence from his Majesty's dominions, to enable her to perform the voyage in which she shall have been engaged, and to return to some port or place in the said dominions; The master on and whenever any ship or vessel which has been so repaired in a foreign arrival to recountry shall arrive at any port in his Majesty's dominions as a British port such re-

No. XIIL c. 55.

Necessity of such repairs to be proved to commissioners of customs.

3 & 4 W. 4, mand or charge of the same shall, upon the first entry thereof, report to the collector and controller of his Majesty's customs at such port that such ship or vessel has been so repaired, under penalty of twenty shillings for every ton of the burthen of such ship or vessel, according to the admeasurement thereof; and if it shall be proved to the satisfaction of the commissioners of his Majesty's customs that such ship or vessel was seaworthy at the time when she last departed from any port or place in his Majesty's dominions, and that no greater quantity of such repairs have been done to the said vessel than was necessary as aforesaid, it shall be lawful for the said commissioners, upon a full consideration of all the circumstances, to direct the collector and controller of the port where such ship or vessel shall have arrived, or where she shall then be, to certify on the certificate of the registry of such ship or vessel that it has been proved to the satisfaction of the commissioners of his Majesty's customs that the privileges of the said ship or vessel have not been forfeited, notwithstanding the repairs which have been done to the same in a foreign country.

registered ship or vessel, the master or other person having the com-

Ships declared be deemed ships lost or broken up.

VIII. That if any ship or vessel registered under the authority of this unseaworthy to or any other act shall be deemed or declared to be stranded or unseaworthy, and incapable of being recovered, or repaired to the advantage of the owners thereof, and shall for such reasons be sold by order or decree of any competent court for the benefit of the owners of such ship or vessel or other persons interested therein, the same shall be taken and deemed to be a ship or vessel lost or broken up to all intents and purposes within the meaning of this act, and shall never again be entitled to the privileges of a British-built ship for any purposes of trade or navigation.

1X. That no British ship or vessel which has been or shall hereafter be captured by and become prize to an enemy or sold to foreigners shall again be entitled to the privileges of a British ship: Provided always, That nothing contained in this act shall extend to prevent the registering of any ship or vessel whatever which shall afterwards be condemned in any court of admiralty as prize of war, or in any commiralty may be petent court, for breach of laws made for the prevention of the slave trade.

captured not to be again ontitled to registry; but ships condemned in courts of adregistered.

British ships

Ships shall be registered at the port to which they belong.

at other ports.

Book of regisbe transmitted to commis-Sioners.

X. That no such registry shall hereafter be made, or certificate thereof granted, by any person or persons herein-before authorized to make such registry and grant such certificate, in any other port or place than the port or place to which such ship or vessel shall properly belong, except so far as relates to such ships or vessels as shall be condemned as prizes in any of the islands of Guernsey, Jersey, or Man, which ships or vessels shall be registered in manner herein-after Commissioners directed; but that all and every registry and certificate made and of customs may granted in any port or place to which any such ship or vessel does not permit registry properly belong shall be utterly null and void to all intents and purposes, unless the officers aforesaid shall be specially authorized and empowered to make such registry and grant such certificate in any other port by an order in writing under the hands of the commissioners of his Majesty's customs, which order the said commissioners are hereby authorized and empowered to issue if they shall see fit; and at every ters to be kept, port where registry shall be made in pursuance of this act a book shall and accounts to be kept by the collector and controller, in which all the particulars contained in the form of the certificate of the registry herein-before directed to he used shall be duly entered; and every registry shall be numbered in progression, beginning such progressive numeration at the commencement of each and every year; and such collector and controller shall forthwith, or within one month at the farthest, transmit to the commissioners of his Majesty's customs a true and exact copy, together with the number of every certificate which shall be by them so granted.

Port to which

XI. That every ship or vessel shall be deemed to belong to some port

at or near to which some or one of the owners, who shall make and No. XIII. subscribe the declaration required by this act before registry be made, 3 & 4 W. 4, shall reside; and whenever such owner or owners shall have transferred all his or their share or shares in such ship or vessel, the same shall be . 느 registered de novo before such ship or vessel shall sail or depart from vessels shall be the port to which she shall then belong, or from any other port which deemed to beshall be in the same part of the united kingdom, or the same colony, long. plantation, island, or territory as the said port shall be in: Provided Change of subalways, that if the owner or owners of such ship or vessel cannot in scribing owners sufficient time comply with the requisites of this act, so that registry to require remay be made before it shall be necessary for such ship or vessel to gistry de novo. sail or depart upon another voyage, it shall be lawful for the collector If registry de and controllor of the port where such ship or vessel may then be to cer- novo cannot be tify upon the back of the existing certificate of registry of such ship or made, ship may vessel, that the same is to remain in force for the voyage upon which go one voyage the said ship or vessel is then about to sail or depart: Provided also, with permission That if any ship or vessel shall be built in any of the colonies, planta-tificate of registions, islands, or territories in Asia, Africa, or America, to his Majesty try. belonging, for owners residing in the united kingdom, and the master Ships built in of such ship or vessel, or the agent for the owner or owners thereof, foreign possesshall have produced to the collector and controller of the port at or near sions, for to which such ship or vessel was built, the certificate of the builder re-owners resident quired by this act, and shall have made and subscribed a declaration in united kingbefore such collector and controller of the names and descriptions of the dom, may have principal owners of such ship or vessel, and that she is the identical a certificate ship or vessel mentioned in such certificate of the builder, and that no from the collecforeigner, to the best of his knowledge and belief, has any interest tor, &c. to trade therein; the collector and controller of such port shall cause such ship for two years or or vessel to be surveyed and measured in like manner as is directed for until arrival in the purpose of registering any ship or vessel, and shall give the master united kingof such ship or vessel a certificate under their hands and seals, purporting to be under the authority of this act, and stating when and where and by whom such ship or vessel was built, the description, tonnage, and other particulars required on registry of any ship or vessel, and such certificate shall have all the force and virtue of a certificate of registry under this act, during the term of two years, unless such ship shall sooner arrive at some place in the united kingdom; and such collector and controllor shall transmit a copy of such certificate to the commissioners of his Majesty's customs.

XII. That no person who has taken the oath of allegiance to any Persons residforeign state, except under the terms of some capitulation, unless he ing in foreign shall afterwards become a denizen or naturalized subject of the united countries may kingdom by his Majesty's letters patent or by act of parliament, nor not be owners, any person usually residing in any country not under the dominion of unless memhis Majesty, his heirs and successors, unless he be a member of some bers of British British factory, or agent for or partner in any house or copartnership factories, or actually carrying on trade in Great Britain or Ireland, shall be entitled agents for or to be the owner, in whole or in part, directly or indirectly, of any ship or tish houses, or vessel required and authorized to be registered by virtue of this act; member of save and except that it shall be lawful for any person who was a mem-merchants ber of the company of merchants trading to the Levant seas at the time trading to Leof its dissolution, and who was a resident at any of the factories of the vant seas. said company, to continue to hold any share or shares in any Britishregistered ship of which at the time of such residence he was an owner or part owner, although such person shall continue to reside at any of the places where such factories had existed prior to the dissolution of the said company.

XIII. That no registry shall henceforth be made or certificate granted Declaration to until the following declaration be made and subscribed, before the per- be made by son or persons herein-before authorized to make such registry and subscribing grant such certificate respectively, by the owner of such ship or vessel owners preif such ship or vessel is owned by or belongs to one person only, or in vious to regis-

No. XIII. c. 55. owners who shall subscribe and take the declaration.

case there shall be two joint owners, then by both of such joint owners 3 & 4 W. 4, if both shall be resident within twenty miles of the port or place where such registry is required, or by one of such owners if one or both of them shall be resident at a greater distance from such port or place; or Proportion of if the number of such owners or proprietors shall exceed two, then by the greater part of the number of such owners or proprietors if the greatet number of them shall be resident within twenty miles of such port or place as aforesaid, not in any case exceeding three of such owners or proprietors, unless a greater number shall be desirous to join in making and subscribing the said declaration, or by one of such owners if all, or all except one, shall be resident at a greater disgrace:

ration,

Form of decla- ' T A .B. of [place of residence and occupation] do truly declare, That the ship or vessel [name] [of port or place], whereof [master's name] 'is at present master, being [kind of built, burthen, et cætera, as described in the certificate of the surveying officer], was [when and where built, or, 'if prize or forfeited, capture and condemnation as such], and that I the ' said A. B. [and the other owners' names and occupations, if any, and where ' they respectively reside, videlicet, town, place, or parish, and county, or if member of and resident in any factory in foreign parts, or in any foreign town or city, being an agent for or partner in any house or copartnership actually carrying on trade in Great Britain or Ireland, the name of such factory, foreign town, or city, and the names of such house or copartnerskip am [or are] sole owner [or owners] of the said vessel, and that no other person or persons whatever hath or have any right, title, interest, share, or property therein or thereto; and that I the said A.B. [and the said other owners, if any] am [or are] truly and bond fide a subject [or subjects] of Great Britain; and that I the said A. B. have not nor have any of the other owners, to the best of my knowledge and belief] taken the oath of allegiance to any foreign state whatever [except under the terms of some capitulation, describing the particulars, thereof or that since my taking [or his or their taking] the oath of allegiance to [naming the foreign states respectively to which he or any of the said owners shall have taken the same I have for he or they hath or have become a denizen for denizens, or naturalized subject or subjects, as the case may be of the united kingdom of Great Britain and 'Ireland by his Majesty's letters patent or by an act of parliament ' [naming the times when such letters of denization have been granted re-'spectively, or the year or years in which such act or acts for naturalization ' have passed respectively; and that no foreigner, directly or indirectly, ' hath any share or part interest in the said ship or vessel.'

Provided always, That if it shall become necessary to register any ship or vessel belonging to any corporate body in the united kingdom, the following declaration, in lieu of the declaration herein-before directed, shall be taken and subscribed by the secretary or other proper officer

of such corporate body; (that is to say,)

' A. B. secretary or officer of [name of company or corporation] do truly declare, That the ship or vessel [name] of [port] whereof [master's ' name] is at present master, being [kind of built, burthen, et cætera, as ' described in the certificate of the surveying officer] was [when and where 'built, or, if prize or forfeited, capture and condemnation as such, and ' that the same doth wholly and truly belong to [name of company or 'corporation.'

Addition to declaration in case the required number of owners do not attend.

XIV. That in case the required number of joint owners or proprietors of any ship or vessel shall not personally attend to make and subscribe the declaration herein-hefore directed to be made and subscribed, then and in such case such owner or owners, proprietor or proprietors, as shall personally attend and make and subscribe the declaration aforesaid, shall further declare that the part owner or part owners of such ship or vessel then absent is or are not resident within twenty miles of such port or place, and hath or have not, to the best of his or

their knowledge or belief, wilfully absented himself or themselves in No. XIII. order to avoid the making the declaration herein-before directed to be 3 & 4 W. 4, made and subscribed, or is or are prevented by illness from attending to make and subscribe the said declaration.

XV. And in order to enable the collector and controller of his Ma- Vessels to be jesty's customs to grant a certificate truly and accurately describing surveyed preevery ship or vessel to be registered in pursuance of this act, and also vious to registo enable all other officers of his Majesty's customs, on due examina-trytion, to discover whether any such ship or vessel is the same with that for which a certificate is alleged to have been granted; be it enacted, That previous to the registering or granting of any certificate of registry as aforesaid some one or more person or persons appointed by the commissioners of his Majesty's customs (taking to his or their assistance, if he or they shall judge it necessary, one or more person or persons skilled in the building and admeasurement of ships,) shall go on board of every such ship or vessel as is to be registered, and shall strictly and accurately examine and admeasure every such ship or vessel as to all and every particular contained in the form of the certificate herein-before directed, in the presence of the master, or of any other person who shall be appointed for that purpose on the part of the owner or owners, or in his or their absence by the said master; and shall deliver a true and Certificate of just account in writing of all such particulars of the built, description, survey to be and admeasurement of every such ship or vessel as are specified in the given: form of the certificate above recited to the collector and controller authorized as aforesaid to make such registry and grant such certificate of registry; and the said master or other person attending on the part Owner or masof the owner or owners is hereby required to sign his name also to the ter concurring certificate of such surveying or examining officer, in testimony of the therein. truth thereof, provided such master or other person shall consent and agree to the several particulars set forth and described therein.

XVI. That for the purpose of ascertaining the tonnage of ships or Mode of advessels the rule for admeasurement shall be as follows; (that is to say,) measurement the length shall be taken on a straight line along the rabbet of the keel, to ascertain from the back of the main stern-post to a perpendicular line from the tonnage. (1) fore part of the main stem under the bowsprit, from which subtracting three-fifths of the breadth, the remainder shall be esteemed the just length of the keel to find the tonnage; and the breadth shall be taken from the outside of the outside plank in the broadest part of the ship, whether that shall be above or below the main wales, exclusive of all manner of doubling planks that may be wrought upon the sides of the ship; then multiplying the length of the keel by the breadth so taken, and that product by half the breadth, and dividing the whole by ninetyfour, the quotient shall be deemed the true contents of the tonnage.

XVII. And whereas it would in some cases endanger ships or vessels Mode of ascerto cause them to be laid on shore; be it therefore enacted, That in cases taining tonnage where it may be necessary to ascertain the tonnage of any ship or vessels when vessels when afloat, according to the foregoing rule, the following method shall are afloat. be observed; (that is to say,) drop a plumb line over the stern of the ship, and measure the distance between such line and the after part of the stern-post at the load watermark, then measure from the top of the plumb line, in a parallel direction with the water, to a perpendicular point immediately over the load watermark at the fore part of the main stem, subtracting from such measurement the above distance, the remainder will be the ship's extreme, from which is to be deducted three inches for every foot of the load draught of water for the rake abaft, also three-fifths of the ship's breadth for the rake forward, the remainder shall be esteemed the just length of the keel to find the tonnage; and the breadth shall be taken from outside to outside of the plank in the broadest part of the ship, whether that shall be above or

No. XIII. c. 55.

Engine room in steam vessels to be deducted.

so ascertained to be ever after deemed the tonnage.

Tonnage when

Bond to be given at the

the certificate shall be solely the service of the vessel, or given up to be cancelled in certain cases.

below the main wales, exclusive of all manner of sheathing or doubling 3 & 4 W. 4, that may be wrought on the side of the ship; then multiplying the length of the keel for tonnage by the breadth so taken, and that product by half the breadth, and dividing by ninety-four, the quotient shall be deemed the true contents of the tonnage.

XVIII. Provided always, That in each of the several rules hereinbefore prescribed, when used for the purpose of ascertaining the tonnage of any ship or vessel propelled by steam, the length of the engine room shall be deducted from the whole length of such ship or vessel, and the remainder shall, for such purpose, be deemed the whole length of the same.

XIX. That whenever the tonnage of any ship or vessel shall have been ascertained according to the rule herein prescribed (except in the case of ships or vessels which have been admeasured afloat), such account of tonnage shall ever after be deemed the tonnage of such ship \cdot or vessel, and shall be repeated in every subsequent registry of such ship or vessel, unless it shall happen that any alteration has been made in the form and burthen of such ship or vessel, or it shall be discovered that the tonnage of such ship or vessel had been erroneously taken and

computed. XX. That at the time of the obtaining of the certificate of registry as aforesaid sufficient security by bond shall be given to his Majesty, his time of registry. heirs and successors, by the master and such of the owners as shall personally attend, as is herein-before required, such security to be approved of and taken by the person or persons herein-before authorized to make such registry and grant such certificate of registry at the port or place in which such certificate shall be granted, in the penalties following; (that is to say,) if such ship or vessel shall be a decked vessel, or be above the burthen of fifteen tons and not exceeding fifty tons, then in the penalty of one hundred pounds; if exceeding the burthen of fifty tons and not exceding one hundred tons, then in the penalty of three hundred pounds; if exceeding the burthen of one hundred tons and not exceeding two hundred tons, then in the penalty of five hundred pounds; if exceeding the burthen of two hundred tons and not exceeding three hundred tons, then in the penalty of eight hundred pounds; and if exceeding the burthen of three hundred tons, then in Conditions that the penalty of one thousand pounds; and the condition of every such bond shall be, that such certificate shall not be sold, lent, or otherwise disposed of to any person or persons whatever, and that the same shall made use of for be solely made use of for the service of the ship or vessel for which it is granted; and that in case such ship or vessel shall be lost, or taken by the enemy, burnt, or broken up, or otherwise prevented from returning to the port to which she belongs, or shall on any account have lost and forfeited the privileges of a British ship, or shall have been seized and legally condemned for illicit trading, or shall have been taken in execution for debt, and sold by due process of law, or shall have been sold to the crown, or shall under any circumstances have been registered de novo, the certificate, if preserved, shall be delivered up, within one

> month after the arrival of the master in any port or place in his Majesty's dominions, to the collector and controller of some port in Great Britain, or of the isle of Man, or of the British plantations, or to the governor, lieutenant governor, or commander in chief for the time being of the islands of Guernsey or Jersey; and that if any foreigner, or any person or persons for the use and benefit of any foreigner, shall purchase or otherwise become entitled to the whole or to any part or share of or any interest in such ship or vessel, and the same shall be within the limits of any port of Great Britain, or of the islands of Guernsey, Jersey, or Man, or of the British colonies, plantations, islands, or territories aforesaid, then and in such case the certificate of registry, shall, within seven days after such purchase or transfer of property in such ship or vessel, be delivered up to the person or persons herein-before authorized to make registry and grant certificate of

registry at such port or place respectively as foresaid; and if such ship No. XIII. or vessel shall be in any foreign port when such purchase or transfer of 3 & 4 W. 4, property shall take place, then that the certificate shall be delivered up to the British consul or other chief British officer resident at or nearest to such foreign port; or if such ship or vessel shall be at sea when such purchase or transfer of property shall take place, then that the certificate shall be delivered up to the British consul or other chief British officer at the foreign port or place in or at which the master or other person having or taking the charge or command of such ship or vessel shall first arrive after such purchase or transfer of property at sea, immediately after his arrival at such foreign port; but if such master or other person who had the command thereof at the time of such purchase or transfer of property at sea shall not arrive at a foreign port, but shall arrive at some port of Great Britain, or of the islands of Guernsey, Jersey, or Man, or of his Majesty's said colonies, plantations, islands, or territories, then that the certificate shall be delivered up, in manner aforesaid, within fourteen days after the arrival of such ship or vessel, or of the person who had the command thereof, in any port of Great Britain, or of the islands of Guernsey, Jersey, or Man, or of any of his Majesty's said colonies, plantations, islands, or territories: Provided always, That if it shall happen that at the time of registry of any ship If ship at the or vessel the same shall be at any other port than the port to which she time of registry belongs, so that the master of such ship or vessel cannot attend at the be at any other port of registry to join with the owner or owners in such bond as afore- port than that said, it shall be lawful for him to give a separate bond, to the like of registry, the effect, at the port where such ship or vessel may then be, and the col- master may lector and controller of such other port shall transmit such bond to the there give bond. collector and controller of the port where such ship or vessel is to be registered, and such bond, and the bond also given by the owner or owners, shall together be of the same effect against the master and owner or owners, or either of them, as if they had bound themselves jointly and severally in one bond. XXI. That when and so often as the master or other person having or When master

taking the charge or command of any ship or vessel registered in is changed new manner herein-before directed shall be changed, the master or owner of master to give such ship or vessel shall deliver to the person or persons herein-before and his name to authorized to make such registry and grant such certificates of registry be indorsed on at the port where such change shall take place the certificate of registry certificate of belonging to such ship or vessel, who shall thereupon indorse and sub-registry. scribe a memorandum of such change, and shall forthwith give notice of the same to the proper officer of the port or place where such ship or vessel was last registered pursuant to this act, who shall likewise make a memorandum of the same in the book of registers which is hereby directed and required to be kept, and shall forthwith give notice thereof to the commissioners of his Majesty's customs: Provided always, That before the name of such new master shall be indorsed on the certificate of registry he shall be required to give and shall give a bond in the like penalties and under the same conditions as are contained in the bond herein-before required to be given at the time of registry of any ship or vessel.

XXII. That all bonds required by this act shall be liable to the same Bonds liable to duties of stamps as bonds given for or in respect of the duties of same duties of customs are or shall be liable to under any act for the time being in stamps as bonds force for granting duties of stamps.

XXIII. That if any person whatever shall at any time have posses- Certificate of sion of and wilfully detain any certificate of registry granted under this registry to be or any other act, which ought to be delivered up to be cancelled ac-given up by all cording to any of the conditions of the bond herein-before required to persons as dibe given upon the registry of any ship or vessel, such person is hereby rected by the required and enjoined to deliver up such certificate of registry in manner bond. directed by the conditions of such bond in the respective cases and under the respective penalties therein provided.

No. XIII.

registered never afterwards to be changed, and to be painted on the stern.

Penalty for omission, 1001.

Builder's certificate of par-

to.

Certificate of mislaid; commissioners may permit registry de novo; or grant a licence.

Bond respecting lost certificate of registry: Condition.

Declaration to be made before licence be granted.

XXIV. That it shall not be lawful for any owner or owners of any 3 & 4 W. 4, ship or vessel to give any name to such ship or vessel other than that by which she was first registered in pursuance of this or any other act; and that the owner or owners of all and every ship or vessel which Name of vessel shall be so registered shall, before such ship or vessel, after such rewhich has been gistry, shall begin to take in any cargo, paint or cause to be painted, in white or yellow letters, of a length of not less than four inches, upon a black ground, on some conspicuous part of the stern, the name by which such ship or vessel shall have been registered pursuant to this act, and the port to which she belongs, in a distinct and legible manner, and shall so keep and preserve the same; and that if such owner or owners or master or other person having or taking the charge or command of such ship or vessel shall permit such ship or vessel to begin to take in any cargo before the name of such ship or vessel has been so painted as aforesaid, or shall wilfully alter, erase, obliterate, or in anywise hide or conceal, or cause or procure or permit the same to be done (unless in the case of square-rigged vessels in time of war), or shall in any written or printed paper, or other document, describe such ship or vessel by any name other than that by which she was first registered pursuant to this act, or shall verbally describe, or cause or procure or permit such ship or vessel to be described, by any other name to any officer or officers of his Majesty's revenue in the due execution of his or their duty, then and in every such case such owner or ewners or master or other person having or taking the charge or command of such ship or vessel shall forfeit the sum of one hundred pounds.

XXV. That all and every person and persons who shall apply for a certificate of the registry of any ship or vessel shall and they are hereby ticulars of ship. required to produce to the person or persons authorized to grant such certificate a true and full account, under the hand of the builder of such ship or vessel, of the proper denomination, and of the time when and the place where such ship or vessel was built, and also an exact account of the tonnage of such ship or vessel, together with the name of the first purchaser or purchasers thereof (which account such builder is hereby directed and required to give under his hand on the same being demanded by such person or persons so applying for a certificate as Declaration to aforesaid), and shall also make and subscribe a declaration before the be made there- person or persons herein-before authorized to grant such certificate that the ship or vessel for which such certificate is required is the same with

that which is so described by the builder as aforesaid.

XXVI. That if the certificate of registry of any ship or vessel shall registry lost or be lost or mislaid, so that the same cannot be found or obtained for the use of such ship or vessel when needful, and proof thereof shall be made to the satisfaction of the commissioners of his Majesty's customs, such commissioners shall and may permit such ship or vessel to be registered de novo, and a certificate thereof to be granted: Provided always, That if such ship or vessel be absent and far distant from the port to which she belongs, or by reason of the absence of the owner or owners, or of any other impediment, registry of the same cannot then be made in sufficient time, such commissioners shall and may grant a licence for the present use of such ship or vessel, which licence shall, for the time and to the extent specified therein, and no longer, be of the same force and virtue as a certificate of registry granted under this act: Provided always, That before such registry de novo be made the owner or owners and master shall give bond to the commissioners aforesaid in such sum as to them shall seem fit, with a condition that if the certificate of registry shall at any time afterwards be found the same shall be forthwith delivered to the proper officers of his Majesty's customs to be cancelled, and that no illegal use has been or shall be made thereof with his or their privity or knowledge; and further, that before any such licence shall be granted as aforesaid the master of such ship or vessel shall also make and subscribe a declaration that the same has been registered as a British ship, naming the port where and the time when such registry.

was made, and all the particulars contained in the certificate thereof, to No. XIII. the best of his knowledge and belief, and shall also give such bond and 3 & 4 W. 4, with the same condition as is before mentioned: Provided also, That before any such licence shall be granted such ship or vessel shall be surveyed in like manner as if a registry de novo were about to be Before licence made thereof; and the certificate of such survey shall be preserved by be granted ship the collector and controller of the port to which such ship or vessel to be surveyed shall belong; and in virtue thereof it shall be lawful for the said as if for regiscommissioners and they are hereby required to permit such ship or try; vessel to be registered after her departure, whenever the owner or and registry owners shall personally attend to take and subscribe the declaration may be made required by this act before registry be made, and shall also comply after departure with all other requisites of this act, except so far as relates to the bond of the ship; to be given by the master of such ship or vessel; which certificate of and certificate registry the said commissioners shall and may transmit to the collector transmitted to and controller of any other port, to be by them given to the master of be exchanged such ship or vessel, upon his giving such bond, and delivering up the for the licence. licence which had been granted for the then present use of such ship or vessel.

XXVII. And whereas it is not proper that any person under any pre- Persons detaintence whatever should detain the certificate of registry of any ship or ing certificate vessel, or hold the same for any purpose other than the lawful use and of registry to navigation of the ship or vessel for which it was granted; be it therefore forfeit 1001. enacted, That in case any person who shall have received or obtained by any means or for any purpose whatever the certificate of the registry of any ship or vessel (whether such person shall claim to be the master or to be the owner or one of the owners of such ship or vessel, or not) shall wilfully detain and refuse to deliver up the same to the proper officers of his Majesty's customs, for the purposes of such ship or vessel, as occasion shall require, or to the person or persons having the actual command, possession, and management of such ship or vessel as the ostensible and reputed master, or as the ostensible and reputed owner or owners thereof, it may and shall be lawful to and for any such lastmentioned person to make complaint on oath of such detainer and refusal to any justice of the peace residing near to the place where such detainer and refusal shall be in Great Britain or Ireland, or to any member of the supreme court of justice or any justice of the peace in the islands of Jersey, Guernsey, or Man, or in any colony, plantation, island, or territory to his Majesty belonging in Asia, Africa, or America, or in Malta, Gibraltar, or Heligoland, where such detainer and refusal shall be in any of the places last mentioned; and on such complaint the said justice or other magistrate shall and is hereby required, by warrant under his hand and seal, to cause the person so complained against to be brought before him to be examined touching such detainer and refusal; and if it shall appear to the said justice or other magistrate, on examination of such person or otherwise, that the said certificate of registry is not lost or mislaid, but is wilfully detained by the said person, such person shall be thereof convicted, (1) and shall forfeit and pay the sum of one hundred pounds, and on failure of payment thereof he shall be committed to the common gaol, there to remain without bail or mainprize for such time as the said justice or other magistrate shall in his discretion deem proper, not being less than three months nor more than twelve months; and the said justice or other ma- Justice to certigistrate shall and he is hereby required to certify the aforesaid detainer, fy detainer, and refusal, and conviction to the person or persons who granted such cer-ship to be registificate of registry for such ship or vessel, who shall, on the terms and tered de novo.

⁽¹⁾ A conviction under this section for detaining the certificate of a ship's registry is bad, unless it state the purpose for which the certificate was required, and that the person demanding it was the proper officer. Rex v. Walsh, 3 Nev. & M. 632.

No. XIII. c. 45.

If person detaining certificate have absconded, ship may be registered as in case of lost certificate.

Ship altered in de novo.

Vessels condemned as prize, or for breach of laws against slave of condemnation to be produced.

Prize vessels not to be registered at Guernsey, Jersey, or Man; but at certain ports.

Transfers of interest to be sale;

Bill of sale not void by unimrecital, &c.

conditions of law being complied with, make registry of such ship or 3 & 4 W. 4, vessel de novo, and grant a certificate thereof conformably to law, notifying on the back of such certificate the ground upon which the ship or vessel was so registered de novo; and if the person who shall have detained and refused to deliver up such certificate of registry as aforesaid, or shall be verily believed to have detained the same, shall have absconded, so that the said warrant of the justice or other magistrate cannot be executed upon him, and proof thereof shall be made to the satisfaction of the commissioners of his Majesty's customs, it shall be lawful for the said commissioners to permit such ship or vessel to be registered de novo, or otherwise, in their discretion, to grant a licence for the present use of such ship or vessel in like manner as is hereinbefore provided in the case wherein the certificate of registry is lost or mislaid.

XXVIII. That if any ship or vessel, after she shall have been regiscertain manner tered pursuant to the directions of this act, shall in any manner whatto be registered ever be altered so as not to correspond with all the particulars contained in the certificate of her registry, in such case such ship or vessel shall be registered de novo, in manner herein-before required, as soon as she returns to the port to which she belongs, or to any other port which shall be in the same part of the united kingdom, or in the same colony, plantation, island, or territory, as the said port shall be in, on failure whereof such ship or vessel shall to all intents and purposes be considered and deemed and taken to be a ship or vessel not duly registered.

XXIX. That the owner or owners of all such ships and vessels as shall be taken by any of his Majesty's ships or vessels of war, or by any private or other ship or vessel, and condemned as lawful prize in any court of admiralty, or of such ships or vessels as shall be condemned in any competent court as forfeited for breach of the laws for the preventrade certificate tion of the slave trade, shall, for the purpose of registering any such ship or vessel, produce to the collector and controller of his Majesty's customs a certificate of the condemnation of such ship or vessel, under the hand and seal of the judge of the court in which such ship or vessel shall have been condemned (which certificate such judge is hereby authorized and required to grant), and also a true and exact account in writing of all the particulars contained in the certificate herein-before set forth, to be made and subscribed by one or more skilful person or persons to be appointed by the court then and there to survey such ship or vessel, and shall also make and subscribe a declaration before the collector and controller that such ship or vessel is the same vessel which is mentioned in the certificate of the judge aforesaid.

XXX. Provided always, That no ship or vessel which shall be taken and condemned as prize or forfeiture as aforesaid shall be registered in the islands of Guernsey, Jersey, or Man, although belonging to his Majesty's subjects residing in those islands, or in some one or other of them; but the same shall be registered either at Southampton, Weymouth, Exeter, Plymouth, Falmouth, Liverpool, or Whitehaven, by the collector and controller at such ports respectively, who are hereby authorized and required to register such ship or vessel, and to grant a certificate thereof in the form and under the regulations and restrictions

in this act contained.

XXXI. That when and so often as the property in any ship or vessel, or any part thereof, belonging to any of his Majesty's subjects, shall, made by bill of after registry thereof, be sold to any other or others of his Majesty's subjects, the same shall be transferred by bill of sale or other instrureciting certifi- ment in writing, containing a recital of the certificate of registry of such cate of registry. ship or vessel, or the principal contents thereof, otherwise such transfer shall not be valid or effectual for any purpose whatever, either in law or in equity: Provided always, That no bill of sale shall be deemed void portant error of by reason of any error in such recital, or by the recital of any former certificate of registry instead of the existing certificate, provided the

identity of the ship or vessel intended in the recital be effectually proved No. XIII.

thereby.

XXXII. That the property in every ship or vessel of which there are more than one owner shall be taken and considered to be divided into sixty-four equal parts or shares, and the proportion held by each owner Property in shall be described in the registry as being a certain number of sixty-ships to be difourth parts or shares; and that no person shall be entitled to be regis- vided into tered as an owner of any ship or vessel in respect of any proportion of sixty-four parts such ship or vessel which shall not be an integral sixty-fourth part or or shares. share of the same; and upon the first registry of any ship or vessel the Declaration owner or owners who shall take and subscribe the declaration required upon first regisby this act before registry be made shall also declare the number of try to state the such parts or shares then held by each owner, and the same shall be so number of such registered accordingly: Provided always, That if it shall at any time happen that the property of any owner or owners in any ship or vessel cannot be reduced by division into any number of integral sixty-fourth Smaller porparts or shares, it shall and may be lawful for the owner or owners of tions may be such fractional parts as shall be over and above such number of integral out stamp sixty-fourth parts or shares into which such property in any ship or vessel can be reduced by division to transfer the same one to another, or jointly to any new owner, by memorandum upon their respective bills of sale, or by fresh bill of sale, without such transfer being liable to any stamp duty: Provided also, That the right of any owner or owners to any such fractional parts shall not be affected by reason of the same not having been registered: Provided also, That it shall be Partners may lawful for any number of such owners, named and described in such hold ships or ' registry, being partners in any house or copartnership actually carrying shares without on trade in any part of his Majesty's dominions, to hold any ship or distinguishing vessel, or any share or shares of any ship or vessel, in the name of such proportionate house or copartnership, as joint owners thereof, without distinguishing owner. the proportionate interest of each of such owners, and that such ship or . vessel or the share or shares thereof so held in copartnership shall be deemed and taken to be partnership property to all intents and purposes, and shall be governed by the same rules, both in law and equity, as relate to and govern all other partnership property in any other goods, chattels, and effects whatsoever.

XXXIII. That no greater number than thirty-two persons shall be Only thirtyentitled to be legal owners at one and the same time of any ship or ves- two persons to sel, as tenants in common, or to be registered as such: Provided be owners of always, That nothing herein contained shall affect the equitable title of any ship at one minors, heirs, legatees, creditors, or others, exceeding that number, duly represented by or holding from any of the persons within the said Not to affect number, registered as legal owners of any share or shares of such ship the equitable or vessel: Provided also, That if it shall be proved to the satisfaction of title of heirs, the commissioners of his Majesty's customs that any number of persons have associated themselves as a joint stock company, for the purpose of Joint stock owning any ship or vessel, or any number of ships or vessels, as the companies. joint property of such company, and that such company have duly elected or appointed any number, not less than three, of the members of the same to be trustees of the property in such ship or vessel or ships or vessels so owned by such company, it shall be lawful for such Trustees may trustees or any three of them, with the permission of such commis- apply to have sioners, to make and subscribe the declaration required by this act registry made. before registry be made, except that instead of stating therein the names and descriptions of the other owners, they shall state the name and description of the company to which such ship or vessel or ships or vessels shall in such manner belong.

XXXIV. That no bill of sale or other instrument in writing shall be Bills of sale not valid and effectual to pass the property in any ship or vessel, or in any effectual until share thereof, or for any other purpose, until such bill of sale or other produced to instrument in writing shall have been produced to the collector and officers of cuscontroller of the port at which such ship or vessel is already registered, toms, and en-

3 & 4 W. 4,

interest of each

c. 55. tered in the

registry.

No. XIII. or to the collector and controller of any other port at which she is about 3 & 4 W. 4, to be registered de novo, as the case may be, nor until such collector and controller respectively shall have entered in the book of such last registry, in the one case, or in the book of such registry de novo, after all the requisites of law for such registry de novo shall have been duly book of registry complied with, in the other case, (and which they are respectively or of intended hereby required to do upon the production of the bill of sale or other instrument for that purpose,) the name, residence, and description of the vendor or mortgagor, or of each vendor or mortgagor, if more than one, the number of shares transferred, the name, residence, and description of the purchaser or mortgagee, or of each purchaser or mortgagee, if more than one, and the date of the bill of sale or other instrument, and of the production of it; and further, if such ship or vessel is not about to be registered de novo, the collector and controller of the port where such ship is registered shall and they are hereby required to indorse the aforesaid particulars of such bill of sale or other instrument on the certificate of registry of the said ship or vessel, when the same shall be produced to them for that purpose, in manner and to the effect following; videlicit,

Form of Indomement

'Custom house [port and date; name, residence, and description of vendor or mortgagor] has transferred by [bill of sale or other instrument]

'dated [date, number of shares] to [name, residence, and description of

' purchaser or mortgagee.

A. B. Collector. C. D. Controller.

missioners.

Notice to com- And forthwith to give notice thereof to the commissioners of customs; and in case the collector and controller shall be desired so to do, and the bill of sale or other instrument shall be produced to them for that purpose, then the said collector and controller are hereby required to certify, by indorsement upon the bill of sale or other instrument, that the particulars before mentioned have been so entered in the book of registry, and indorsed upon the certificate of registry as aforesaid.

Entry of bill of except in certain cases

XXXV. That when and so soon as the particulars of any bill of sale sale to be valid, or other instrument by which any ship or vessel, or any share or shares thereof, shall be transferred, shall have been so entered in the book of registry as aforesaid, the said bill of sale or other instrument shall be valid and effectual to pass the property thereby intended to be transferred as against all and every person and persons whatsoever, and to all intents and purposes, except as against such subsequent purchasers and mortgagees who shall first procure the indorsement to be made upon the certificate of registry of such ship or vessel in manner hereinafter mentioned.

When a bill of sale has been shares, thirty days shall be allowed for indorsing the certificate of registry, before any other bill of sale for the same shall be entered.

XXXVI. That when and after the particulars of any bill of sale or other instrument by which any ship or vessel, or any share or shares entered for any thereof, shall be transferred, shall have been so entered in the book of registry as aforesaid, the collector and controller shall not enter in the book of registry the particulars of any other bill of sale or instrument purporting to be a transfer by the same vendor or mortgagor or vendors or mortgagors of the same ship or vessel, share or shares thereof, to any other person or persons, unless thirty days shall elapse from the day on which the particulars of the former bill of sale or other instrument were entered in the book of registry; or in case the ship or vessel was absent from the port to which she belonged at the time when the particulars of such former bill of sale or other instrument were entered in the book of registry, then unless thirty days shall have elapsed from the day on which the ship or vessel arrived at the port to which the same belonged; and in case the particulars of two or more such bills of sale or other instruments as aforesaid shall at any time have been entered in the book of registry of the said ship or vessel, the collector and controller shall not enter in the book of registry the particulars of

any other bill of sale or other instrument as aforesaid unless thirty days shall in like manner have elapsed from the day on which the particulars 3 & 4 W. 4, of the last of such bill of sale or other instrument were entered in the books of registry, or from the day on which the ship or vessel arrived at the port to which she belonged, in case of her absence as aforesaid; and in every case where there shall at any time happen to be two or more transfers by the same owner or owners of the same property in any ship or vessel entered in the book of registry as aforesaid, the collector and controller are hereby required to indorse upon the certificate of registry of such ship or vessel the particulars of that bill of sale or other instrument under which the person or persons claims or claim property who shall produce the certificate of registry for that purpose within thirty days next after the entry of his said bill of sale or other instrument in the book of registry as aforesaid, or within thirty days next after the return of the said ship or vessel to the port to which she belongs, in case of her absence at the time of such entry as aforesaid; and in case no person or persons shall produce the certificate of registry within either of the said spaces of thirty days, then it shall be lawful for the collector and controller, and they are hereby required, to indorse upon the certificate of registry the particulars of the bill of sale or other instrument to such person or persons as shall first produce the certificate of registry for that purpose, it being the true intent and meaning Nature of the of this act that the several purchasers and mortgagees of such ship or priority invessel, share or shares thereof, when more than one appear to claim the tended in this same property, or to claim security on the same property, in the same act. rank and degree, shall have priority one over the other, not according to the respective times when the particulars of the bill of sale or other instrument by which such property was transferred to them were entered in the book of registry as aforesaid, but according to the time when the indorsement is made upon the certificate of registry as aforesaid: Provided always, That if the certificate of registry shall be lost or Provision in mislaid, or shall be detained by any person whatever, so that the case certificate indorsement cannot in due time be made thereon, and proof thereof be mislaid. shall be made by the purchaser or mortgagee, or his known agent, to the satisfaction of the commissioners of his Majesty's customs, it shall be lawful for the said commissioners to grant such further time as to them shall appear necessary for the recovery of the certificate of registry, or for the registry de novo of the said ship or vessel under the provisions of this act, and thereupon the collector and controller shall make a memorandum in the book of registers of the further time so granted, and during such time no other bill of sale shall be entered for the transfer of the same ship or vessel, or the same share or shares thereof, or for giving the same security thereon.

XXXVII. That if the certificate of registry of such ship or vessel Bills of sale shall be produced to the collector and controller of any port where she may be promay then be, after any such bill of sale shall have been recorded at the duced after port to which she belongs, together with such bill of sale, containing a entry at other notification of such record, signed by the collector and controller of ports than those such port as before directed, it shall be lawful for the collector and controller of such other port to indorse on such certificate of registry (being transfers integrated so to do) the transfer mentioned in such hill of sale and such transfers inrequired so to do) the transfer mentioned in such bill of sale, and such dorsed on cercollector and controller shall give notice thereof to the collector and tificate of recontroller of the port to which such ship or vessel belongs, who shall gistry. record the same in like manner as if they had made such indorsement themselves, but inserting the name of the port at which such indorsement was made: Provided always, that the collector and controller of Previous notice such other port shall first give give notice to the collector and con- to be given to troller of the port to which such ship or vessel belongs of such re-officers at the quisition made to them to indorse the certificate of registry, and the port of registry. collector and controller of the port to which such ship or vessel belongs shall thereupon send information to the collector and controller of such other port, whether any and what other bill or bills of sale have been

No. XIII.

If upon registry corded, the same shall then be produced.

Upon change though not required by law.

Copies of de-

No. XIII. recorded in the book of the registry of such ship or vessel; and the col-3 & 4 W. 4, lector and controller of such other port having such information shall proceed in manner directed by this act in all respects to the indorsing of the certificate of registry as they would do if such port were the port to which such vessel belonged.

XXXVIII. That if it shall become necessary to register any ship or de novo any bill vessel de novo, and any share or shares of such ship or vessel shall have of sale shall not been sold since she was last registered, and the transfer of such share have been re- or shares shall not have been recorded and indorsed in manner hereinbefore directed, the bill of sale thereof shall be produced to the collector and controller of his Majesty's customs, who are to make registry of such ship or vessel, otherwise such sale shall not be noticed in such Bill of sale pre-registry de novo, except as herein-after excepted: Provided always, vious to registry That upon the future production of such bill of sale, and of the existing may be record- certificate of registry, such transfer shall and may be recorded and ed after registry. indorsed as well after such registry de novo as before.

XXXIX. That if upon any change of property in any ship or vessel of property, re the owner or owners shall desire to have the same registered de novo, gistry de novo although not required by this act, and the owner or proper number of may be granted owners shall attend at the custom house at the port to which such ship if desired, al- or vessel belongs for that purpose, it shall be lawful for the collector and controller of his Majesty's customs at such port to make registry de novo of such ship or vessel at the same port, and to grant a certificate thereof, the several requisites herein-before in this act mentioned and directed being first duly observed and complied with.

XL. And whereas great inconvenience hath arisen from the registerclarations, &c. ing officers being served with subpænas requiring them to bring with and of extracts them and produce, on trials in courts of law relative to the ownery of from books of vessels, or otherwise, the oaths or declarations required to be taken by registry admit- the owners thereof prior to the registering thereof, and the books of ted in evidence. registry, or copies or extracts therefrom: And whereas it would tend much to the dispatch of business if the attendance of such registering officers with the same upon such trials were dispensed with; be it therefore enacted, That the collector and controller of his Majesty's customs at any port or place, and the person or persons acting for them respectively, shall, upon every reasonable request by any person or persons whomsoever, produce and exhibit for his, her, or their inspection and examination any oath or declaration sworn or made by any such owner or owners, proprietor or proprietors, and also any register or entry in any book or books of registry required by this act to be made or kept relative to any ship or vessel, and shall, upon every reasonable request by any person or persons whomsoever, permit him, her, or them to take a copy or copies or an extract or extracts thereof respectively; and that the copy and copies of any such oath or declaration, register or entry, shall, upon being proved to be a true copy or copies thereof respectively, he allowed and received as evidence upon every trial at law, without the production of the original or originals, and without the testimony or attendance of any collector or controller, or other person or persons acting for them respectively, in all cases, as fully and to all intents and purposes as such original or originals, if produced by any collector or collectors, controller or controllers, or other person or persons acting for them, could or might legally be admitted or received in evidence.

Vessels or

cord of such

XLI. That if the ship or vessel, or the share or shares of any owner shares sold in thereof who may be out of the kingdom, shall be sold in his absence by the absence of his known agent or correspondent, under his directions either expressed owners without or implied, and acting for his interest in that behalf, and such agent formal powers. or correspondent who shall have executed a bill of sale to the purchaser Commissioners of the whole of such ship or vessel, or of any share or shares thereof, may permit re- shall not have received a legal power to execute the same, it shall be lawful for the commissioners of his Majesty's customs, upon application sales or regis- made to them, and proof to their satisfaction of the fair dealings of the

parties, to permit such transfer to be registered, if registry de novo be No. XIII. necessary, or to be recorded and indorsed, as the case may be, in man- 3 & 4 W. 4, ner directed by this act, as if such legal power had been produced; and also if it shall happen that any bill of sale cannot be produced, or if, by reason of distance of time, or the absence or death of parties try de novo as concerned, it cannot be proved that a bill of sale for any share or shares the case may in any ship or vessel had been executed, and registry de novo of such require; ship or vessel shall have become necessary, it shall be lawful for the and in other commissioners of his Majesty's customs, upon proof to their satisfaction cases where of the fair dealings of the parties, to permit such ship or vessel to be bills of sale registered de novo in like manner as if a bill of sale for the transfer of duced; such share or shares had been produced: Provided always, That in security being any of the cases herein mentioned good and sufficient security shall be given to progiven to produce a legal power or bill of sale within a reasonable time, duce legal powor to abide the future claims of the absent owner, his heirs and suc- ers or abide cessors, as the case may be; and at the future request of the party future claims. whose property has been so transferred, without the production of a bill of sale from him or from his lawful attorney, such bond shall be available for the protection of his interest, in addition to any powers or rights which he may have in law or equity against the ship or vessel, or against the parties concerned, until he shall have received full indemnity for any loss or injury sustained by him.

XLII. That when any transfer of any ship or vessel, or of any share Transfer by or shares thereof, shall be made only as a security for the payment of way of morta debt or debts, either by way of mortgage, or of assignment to a trustee gage. or trustees for the purpose of selling the same for the payment of any debt or debts, then and in every such case the collector and controller of the port where the ship or vessel is registered shall, in the entry in the book of registry, and also in the indorsement on the certificate of registry, in manner herein-before directed, state and express that such transfer was made only as a security for the payment of a debt or debts, or by way of mortgage, or to that effect; and the person or persons to Mortgages not whom such transfer shall be made, or any other person or persons to be deemed claiming under him or them as a mortgagee or mortgagees, or a trustee an owner. or trustees only, shall not by reason thereof be deemed to be the owner or owners of such ship or vessel, share or shares thereof, nor shall the person or persons making such transfer be deemed by reason thereof to have ceased to be an owner or owners of such ship or vessel, any more than if no such transfer had been made, except so far as may be necessary for the purpose of rendering the ship or vessel, share or shares so transferred, available by sale or otherwise for the payment of

the debt or debts for securing the payment of which such transfer shall

have been made. XLIII. That when any transfer of any ship or vessel, or of any share Transfers of or shares thereof, shall have been made as a security for the payment ships for secuof any debt or debts, either by way of mortgage or of assignment as rity of debts aforesaid, and such transfer shall have been duly registered according being registerto the provisions of this act, the right or interest of the mortgagee or ed, rights of other assignee as aforesaid shall not be in any manner affected by any affected by any affected by any affected by any mortgagors or assignors, after the time when such mortgage or assignment shall have been so registered as aforesaid, notwithstanding such gagor, &c. mortgagor or assignor, mortgagors or assignors, at the time he or they shall so become bankrupt as aforesaid, shall have in his or their possession, order, and disposition, and shall be the reputed owner or owners of the said ship or vessel, or the share or shares thereof, so by him or them mortgaged or assigned as aforesaid, but that such mortgage or assignment shall take place of and be preferred to any right, claim, or interest which may belong to the assignee or assignees of such bankrupt or bankrupts in such ship or vessel, share or shares thereof, any law or statute to the contrary thereof notwithstanding.

No. XIII. 3 & 4 W. 4,

c. 55. Governors of colonies, &c. ceedings in suits to be stayed.

XLIV. That it shall and may be lawful for any governor, lieutenant governor, or commander in chief of any of his Majesty's colonies, plantations, islands, or territories, and they are hereby respectively authorized and required, if any suit, information, libel, or other prosecution or proceeding of any nature or kind whatever shall have been commenced or shall hereafter be commenced in any court whatever in any may cause pro- of the said colonies, plantations, islands, or territories respectively, touching the force and effect of any register granted to any ship or vessel, upon a representation made to any such governor, lieutenant governor, or commander in chief, to cause all proceedings thereon to be stayed, if he shall see just cause so to do, until his Majesty's pleasure shall be known and certified to him by his Majesty, by and with the advice of his Majesty's privy council; and such governor, lieutenant governor, or commander in chief is hereby required to transmit to one of his Majesty's principal secretaries of state, to be laid before his Majesty in council, an authenticated copy of the proceedings in every such case, together with his reasons for causing the same to be stayed, and such documents (properly verified) as he may judge necessary for the information of his Majesty.

Penalty of 500*l*. on persons making false declarament.

XLV. That if any person or persons shall falsely make declaration to any of the matters herein-before required to be verified by declaration, or if any person or persons shall counterfeit, erase, alter, or falsify any certificate or other instrument in writing required or directed to be obtion, or falsify- tained, granted, or produced by this act, or shall knowingly or wilfully make use of any certificate or other instrument so counterfeited, erased, altered, or falsified, or shall wilfully grant such certificate or other instrument in writing, knowing it to be false, such person or persons shall for every such offence forfeit the sum of five hundred pounds.

How penalties are to be reco-**~e**red,

and officers' shares.

XLVI. That all the penalties and forfeitures inflicted and incurred by this act shall and may be sued for, prosecuted, recovered, and disposed of in such manner, and by such ways, means, and methods, as any penalties or forfeitures inflicted or which may be incurred for any offences committed against any law relating to the customs may now legally be sued for, prosecuted, recovered, and disposed of; and that the officer or officers concerned in seizures or prosecutions under this act shall be entitled to and receive the same share of the produce arising from such seizures as in the case of seizures for unlawful importation, and to such share of the produce arising from any pecuniary fine or penalty for any offence against this act as any officer or officers is or are now by any law or regulation entitled to upon prosecutions for pecuniary penalties.

[No. XIV.] 3 & 4 W. IV. c. 56.—An Act for granting Duties of Customs. [28th August 1833.]

[No. XV.] 3 & 4 W. IV. c. 57.—An Act for the Warehousing of Goods. [28th August 1833.]

[No. XVI.] 3 & 4 W. IV. c. 58.—An Act to grant certain Bounties and Allowances of Customs.

[28th August 1833.]

[No. XVII.] 3 & 4 W. IV. c. 59.—An Act to regulate the Trade of the British Possessions abroad.

[28th August 1833.]

[No. XVIII.] 3 & 4 W. IV. c. 60.—An Act for regulating the Trade of the Isle of Man. [28th August 1833.]

[No. XIX.] 3 & 4 W. IV. c. 61.—An Act to admit Sugar without Payment of Duty to be refined for Exportation. [28th August 1833.]

WHEREAS it is expedient to admit sugar without payment of duty to be refined for exportation, under the lock of the crown; be it therefore enacted, &c., That upon the application to the commissioners Commissioners of his Majesty's customs of any person actually carrying on the busi- of his Majesty's ness of a sugar refiner in the ports of London, Liverpool, Bristol, Hull, customs may Greenock, or Glasgow, or any other port to be approved of by any three approve of of the lords commissioners of his Majesty's treasury, it shall be lawful premises for for the commissioners of his Majesty's customs, by their order, to bonded sugar approve of such premises as bonded sugar houses for the refining of houses. sugar for exportation only, on it being made appear to the satisfaction of the said commissioners that the said premises are fit in every respect for receiving such sugars, and wherein the same may be safely deposited.

II. That on the approval of any premises as bonded sugar houses as On approval aforesaid, it shall be lawful for the officers of the customs at the ports thereof, officers respectively where such premises are situated to deliver, without pay- of customs emment of duty, to the party or parties so applying as aforesaid, on entry powered to with the proper officer of customs, any quantity of foreign sugar, or of deliver sugars sugar the produce of any British possession, for the purpose of being there refined under the locks of the crown, for exportation only; and there refined, under the locks of the crown, for exportation only; and for exportation that all sugars so delivered shall be lodged and secured in such pre-only. mises, under such conditions, regulations, and restrictions as the said commissioners shall from time to time direct: Provided always, That it proval may be shall be lawful for the said commissioners by their order to revoke or revoked.

alter any former order of approval of any such premises. III. That upon the entry of sugar to be refined in any premises Refiner to give approved of under the authority of this act, the refiner on whose pre-bond that sugar mises the same is to be refined shall give bond, to the satisfaction of the received be officers of the customs, in the penalty of double the amount of the submitted to duty payable upon a like quantity of sugar of the British plantations, process of rewith a condition that the whole of such sugar shall be actually sub-finement, and with a condition that the whole of such sugar shall be actually subjected to the process of refinement upon the said premises, and that
within four months from the date of such bond the whole of the refined
live ed into sugar and treacle produced by such process shall be either duly exported bonded warefrom the said premises, or delivered into an approved bonded ware-house. house, under the locks of the crown, for the purpose of being eventually exported to foreign parts.

[No. XX.] 3 & 4 W. IV. c. 88.—An Act to continue for Seven Years, and from thence to the End of the then next Session of Parliament, an Act of the Fifty-ninth Year of King George the Third (59 G. 3, c 58), for facilitating the Recovery of the Wages of Seamen in the Merchants [28th August 1833.] Service.

[No. XXI.] 3 & 4 W. 4, c. 93.—An Act to regulate the Trade to China and India. [28th August 1833.]

WHEREAS the exclusive right of trading with the dominions of the emperor of China, and of trading in tea now enjoyed by the united company of merchants of England trading to the East Indies, will cease from and after the twenty-second day of April, one thousand eight hundred and thirty-four: (1) And whereas it is expedient that the trade with China, and the trade in tea, should be open to all his Majesty's subjects, and that the restrictions imposed on the trade of his Majesty's subjects with places beyond the Cape of Good Hope to the Streights of Magellan, for the purpose of protecting the exclusive rights of trade heretofore enjoyed by the said company, should be removed: Be it therefore enacted, &c., That from and after the said twenty-second day act 4 G. 4, c. of April, one thousand eight hundred and thirty-four an act passed in 80, except as the fourth year of the reign of his late Majesty king George the fourth, intituled An Act to consolidate and amend the several Laws now in force with respect to Trade from and to Places within the Limits of the Charter of the East India Company, and to make further Provisions with respect to such Trade, and to amend an Act of the present Session of Parliament, for the registering of Vessels, so far as it relates to Vessels registered in India, shall be repealed, except such parts thereof as relate to Asiatic sailors, Lascars, being natives of the territories under the government of the East India company, but so as not to revive any acts or parts of acts by the said act repealed; and except also as to such voyages and adventures as shall have been actually commenced under the authority of the said act; and except as to any suits and proceedings which may have been commenced, and shall be depending on the said twentysecond day of April, one thousand eight hundred and thirty-four; and from and after the said twenty-second day of April one thousand eight hundred and thirty-four the enactments herein-after contained shall. come into operation.

Repeal of the herein mentioned.

Repeal of prothe importagoods from China, imposed by 6 G. 4, c. 107, and 6 G. 4, c. 114.

hibitions upon his late Majesty king George the fourth, intituled An Act for the general Regulation of the Customs, as prohibits the importation of tea, unless tion of tea and from the place of its growth, and by the East India company, and into the port of London; and also so much of the said act as prohibits the importation into the united kingdom of goods from China, unless by the East India company, and into the port of London; and also so much of the said act as requires that the manifests of ships departing from places in China shall be authenticated by the chief supercargo of the East India company; and also that so much of another act passed in the said sixth year of the reign of his said late Majesty king George the fourth, intituled An Act to regulate the Trade of the British Possessions Abroad, as prohibits the importation of tea into any of the British possessions in America, and into the island of Mauritius, except from the united kingdom, or from some other British possessions in America, and unless by the East India company or with their licence, shall be, from and after the twenty-second day of April one thousand eight All British sub- hundred and thirty-four, repealed; and thenceforth (notwithstanding jects may carry any provision, enactment, matter, or thing made for the purpose of proon trade beyond tecting the exclusive rights of trade heretofore enjoyed by the said company, in any charter of the said company, in the said act or any other Good Hope to act of parliament contained,) it shall be lawful for any of his Majesty's subjects to carry on trade with any countries beyond the Cape of Good Hope to the Streights of Magellan.

II. That so much of an act passed in the sixth year of the reign of

the Cape of Streights of Magellan.

⁽¹⁾ By the 3 & 4 W. 4, c. 85, the British territories are to remain under the government of the East India Company until the 30th April, 1854, and during that time their trading is to be suspended. The act will be found in a subsequent part of this supplement.

No. XI.

III. Provided always, That the person having the command of any ship or vessel arriving at any place in the possession of or under the 3 & 4 W. 4, government of the said company shall make out, sign, and deliver to the principal officer of the customs, or other person thereunto lawfully authorized, a true and perfect list, specifying the names, capacities, and List of persons description of all persons who shall have been on board such ship or on board any vessel at the time of its arrival; and if any person having the command ship arriving in of such ship or vessel shall not make out, sign, and deliver such list, India to be dehe shall forfeit one hundred pounds, one half part of which penalty livered to offishall belong to such person or persons as shall inform or sue for the cers of customs. same, and the other half part to the said company; and if the said com- Penalty for nepany shall inform or sue for the same, then the whole of the said glect, 1001. penalty shall belong to the said company.

IV. That the penalty or forfeiture aforesaid shall be recoverable by Penalties how action of debt, bill, plaint, or information in any of his Majesty's recoverable. courts of record in the united kingdom of Great Britain and Ireland, and in India or elsewhere, or in any courts in India to which jurisdiction may hereafter be given by the governor-general of India in council in that behalf, to be commenced in the county, presidency, colony, or settlement where the offender may happen to be; or by conviction in a summary way before two justices of the peace in the united kingdom, or in India, of the county or presidency where such offender may happen to be; and upon such conviction the penalty or forfeiture aforesaid shall and may be levied by distress and sale of the goods and chattels of the offender; and for want of such sufficient distress every such offender may be committed to the common gaol or house of cor-

rection for the space of three calendar months.

V. And whereas it is expedient for the objects of trade and amicable Three superinintercourse with the dominions of the emperor of China that provision tendants of the be made for the establishment of a British authority in the said domi- China trade to nions; be it therefore enacted, That it shall and may be lawful for his be appointed. Majesty, by any commission or commissions or warrant or warrants under his royal sign manual, to appoint not exceeding three of his Majesty's subjects to be superintendents of the trade of his Majesty's subjects to and from the said dominions for the purpose of protecting and promoting such trade, and by any such commission or warrant as aforesaid to settle such gradation and subordination among the said superintendents (one of whom shall be styled the chief superintendent), and to appoint such officers to assist them in the execution of their duties, and to grant such salaries to such superintendents and officers as his Majesty shall from time to time deem expedient.

VI. That it shall and may be lawful for his Majesty, by any such His Majesty in order or orders, commission or commissions, as to his Majesty in council may council shall appear expedient and salutary, to give to the said superin- issue orders and tendents, or any of them, powers and authorities over and in respect of commissions to the trade and commerce of his Majesty's subjects within any part of have force in the said dominions; and to make and issue directions and regulations China; touching the said trade and commerce, and for the government of his and issue regu-Majesty's subjects within the said dominions; and to impose penalties, lations touchforfeitures, or imprisonments for the breach of any such directions or ing the trade; regulations, to be enforced in such manner as in the said order or orders shall be specified; and to create a court of justice with criminal and create a and admiralty jurisdiction for the trial of offences committed by his court of justice Majesty's subjects within the said dominions, and the ports and havens for trial of thereof, and on the high seas within one hundred miles of the coast of offences in that China; and to appoint one of the superintendents herein-before men-part. tioned to be the officer to hold such court, and other officers for executing the process thereof; and to grant such salaries to such officers as to his Majesty in council shall appear reasonable.

VII. That no superintendent or commissioner appointed under the Superintendauthority of this act shall accept for or in discharge of his duties ents, &c. not to any gift, donation, gratuity, or reward, other than the salary which may accept gifts, or

c. 93. to be approdefraying the expence of es-

tablishments in

China.

No. XIII. be granted to him as aforesaid, or be engaged in any trade or traffic for 3 & 4 W. 4, his own benefit, or for the benefit of any other person or persons.

VIII. That it shall be lawful for his Majesty, by and with the advice of his privy council, by any order or orders to be issued from time to A tonnage duty time, to impose, and to empower such persons as his Majesty in council to be imposed, shall think fit to collect and levy from or on account of any ship or vessel belonging to any of the subjects of his Majesty entering any port priated towards or place where the said superintendents or any of them shall be stationed, such duty on tonnage and goods as shall from time to time be specified in such order or orders not exceeding in respect of tonnage the sum of five shillings for every ton, and not exceeding in respect of goods the sum of ten shillings for every one hundred pounds of the value of the same, the fund arising from the collection of which duties shall be appropriated, in such manner as his Majesty in council shall direct, towards defraying the expences of the establishments by this act authorized within the said dominions: Provided always, That every order in council issued by authority of this act shall be published in the London Gazette; and that every such order in council, and the amount of expence incurred, and of duties raised under this act, shall be annually laid before both houses of parliament.

Limitation of actions.

IX. That if any suit or action shall be brought against any person or persons for any thing done in pursuance of this act, then and in every such case such action or suit shall be commenced or prosecuted within six months after the fact committed, and not afterwards, except where the cause of action shall have arisen in any place not within the jurisdiction of any of his Majesty's courts having civil jurisdiction, and then within six months after the plaintiff or plaintiffs and defendant or defendants shall have been within the jurisdiction of any such court; and the same and every such action or suit shall be brought in the county or place where the cause of action shall have arisen, and not elsewhere, except where the cause of action shall have arisen in any place not within the jurisdiction of any of his Majesty's courts having civil jurisdiction; and the defendant or defendants shall be entitled to the like notice, and shall have the like privilege of tendering amends to the plaintiff or plaintiffs, or their agent or attorney, as is provided in actions brought against any justice of the peace for acts done in the execution of his office by an act passed in the twenty-fourth year of the reign of 24 G. 2, c. 44. king George the second, intituled An Act for the rendering Justices of

If action brought after time limited, &c.

the Peace more safe in the Execution of their Office, and for indemnifying Constables and others acting in obedience to their warrants; and the defendant or defendants in every such action or suit may plead the gene-General issue, ral issue, and give the special matter in evidence; and if the matter or thing complained of shall appear to have been done under the authority and in execution of this act, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought and laid in any other county or place than the same ought to have been brought or laid in as aforesaid, then the jury shall find for the defendant or defendants; and if the plaintiff or plaintiffs shall become nonsuit, or discontinue any action after the defendant or defendants shall have appeared, or if a verdict shall pass against the plaintiff or plaintiffs. or if upon demurrer judgement shall be taken against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for recovery thereof as any defendant or defendants hath or have in any cases of law.

Treble costs.

[No. XXII.] 4 & 5 W. IV. c. 13.—An Act to repeal so much of an Act of the last Session of Parliament for the Prevention of Smuggling as authorizes Magistrates to sentence Persons convicted of certain Offences to serve His Majesty in His Naval Service, and to alter and amend the said Act.

[22nd May 1834.]

[No. XXIII.] 4 & 5 W. IV. c. 32.—An Act for reducing the Tonnage Rates payable in the Port of London.

[25th July 1834.]

[No. XXIV.] 4 & 5 W. IV. c. 34.—An Act to repeal the Laws relating to the Contribution out of Merchant Seamen's Wages towards the Support of the Royal Naval Hospital at Greenwich, and for supplying other Funds in lieu thereof.

[25th July 1834.]

WHEREAS by an act of the seventh and eighth years of the reign of king William the third, for the increase and encouragement of seamen, it was amongst other things enacted, that every seamen who should serve his Majesty, his heirs and successors, or any other person in any of his Majesty's ships, or in any ship or vessel belonging to the subjects of England or any other his Majesty's dominions, should allow and there should be paid out of the wages of every such seaman to grow due sixpence per month, for the better support of the royal hospital for seamen at Greenwich, which allowance and abatement were by an act passed in the tenth year of the reign of queen Anne extended to the wages of every seaman and other person employed in any ship or vessel belonging to the subjects of Great Britain and Ireland, and the dominions thereto belonging; and the said allowance was, by another act passed in the second year of the reign of king George the second, further extended to the wages of seamen belonging to the ships and vessels of the islands of Guernsey, Jersey, Alderney, Sark, and Man, and of his Majesty's colonies in America: And whereas by an act passed in the tenth year of the reign of his late Majesty king George the fourth, for transferring the management of Greenwich out-pensions and certain duties in matters of prize to the treasurer of the navy, it is enacted, that such allowance out of the wages of all seamen serving his Majesty or employed in any of his Majesty's ships should cease to be payable: And whereas by an act passed in the second year of the reign of his present Majesty, for amending the laws relating to the civil departments of the navy, it is declared that the said allowance shall be abated out of the wages of every person serving in any ship or vessel (not being in commission and in the pay of the royal navy) which shall belong to or be employed in the service of his Majesty in the several departments of the public service: And whereas it is expedient that the allowance or contribution of sixpence per month out of the wages of all seamen whatever, as well those employed in the ships or vessels in the service of his Majesty as in the merchant shipping of the united kingdom, and of the dominions, islands, and territories thereto belonging, should no longer be made towards the support of the said hospital, and that in lieu thereof other funds should be provided for that purpose:

Be it therefore enacted, &c., That from and after the thirty-first day of Repeal of 7 & December one thousand eight hundred and thirty-four the said recited 8 W. 3, c. 21. act of the seventh and eighth years of the reign of king William the third, for the increase and encouragement of seamen; and also so much 8 & 9 W. 3,

as remains unrepealed of an act of the eighth and ninth years of the c. 23.

c. 34.

s. 5.

2 G. 2, c. 7.

s. 10.

s, 2.

s. 23.

except as to matters required to be done previous to 1st Jan. 1835, and to penalties incurred.

An annual sum the consolidated fund.

No. XXIV. reign of king William the third, made to enforce the said act for the in-4 & 5 W. 4, crease and encrouragement of seamen; and also an act passed in the tenth year of the reign of queen Anne, for the better collecting and recovering of duties granted for the support of the royal hospital at 10 Anne, c. 17. Greenwich, and for the further benefit thereof: and also so much of an 8 G. 1, c. 24, act passed in the eighth year of the reign of his Majesty king George the first, for the more effectual suppression of piracy, as relates to the admission of merchant seamen into Greenwich hospital; and also an act passed in the second year of the reign of king George the second, for the more effectual collecting, in Great Britain and Ireland, and other parts of his Majesty's dominions, the duties granted for the support of the 8 G. 2, c. 29, said royal hospital; and also so much of an act passed in the eighth year of the reign of king George the second, for the application of the rents and profits of the estates forfeited by the attainders of James earl of Derwent-water and Charles Radcliffe, as relates to the admission of merchant seamen into the said hospital; and also an act passed in the 18 G. 2, c. 31. eighteenth year of the reign of king George the second, for the more effectually recovering and collecting of the duties granted towards the support of Greenwich hospital, and for other purposes; and also so 2 G. 3, c. 31, much of an act passed in the second year of the reign of king George the third, for making perpetual an act for the better regulation and government of seamen in the merchant service, and for extending the provisions thereof to his Majesty's colonies in America, as relates to the payment, recovery, and application of all penalties and forfeitures incurred under an act passed in the second year of the reign of king George the second, for the better regulation and government of seamen in the merchant service; and also so much of the said act passed in the 2 W. 4, c. 40, second year of the reign of his present Majesty as enacts that the said abatement shall be made out of the wages of persons serving in any ship or vessel belonging to or employed in the service of his Majesty in the several public departments, shall be and the same are hereby repealed; save and except as to all matters and things required to be done, and all abatements and payments to be made, for any period pre-

provisions of the said acts. II. And whereas the sum available towards the support of the said of 20,0001. to royal hospital from the sources provided by the said repealed acts hath be charged on upon an average amounted annually to the sum of twenty-two thousand pounds or thereabouts: And whereas the revenues of the said hospital will by such repeal be so greatly diminished as to render them wholly inadequate to the maintenance of its establishment, and it is highly becoming the honour and character of the British nation that those seamen and marines who have been or shall hereafter be maimed, wounded, disabled, or worn out in its service on board any of the ships of war of his Majesty, or in the naval service of the country, should be supported according to the original design of the foundation of the said hospital, and that they should not be left destitute, and it is consequently necessary that other permanent funds should be provided for its maintenance; be it therefore further enacted, That from and after the thirty-first day of December one thousand eight hundred and thirtyfour there shall be annually charged upon and payable out of the consolidated fund of the united kingdom of Great Britain and Ireland the sum of twenty thousand pounds, which sum shall be paid to the commissioners of the said royal hospital at Greenwich by equal half-yearly payments on the fifth day of January and the fifth day of July in each year, to be by the said commissioners applied towards the maintenance of the said establishment; the first of which half-yearly payments shall be made on the fifth day of July one thousand eight hundred and thirty-five.

vious to the first day of January one thousand eight hundred and

thirty-five, in pursuance of any of the said acts and parts of acts hereby

repealed; and also save and except as to all penalties and forfeitures already incurred or which shall or may be incurred under any of the

III. That it shall be lawful for the lord high treasurer or the commis- No. XXIV. sioners of the treasury of the united kingdom of Great Britain and Ire- 4 & 5 W. 4, land for the time being, or any three or more of them, and they are hereby required, by warrant under their hands, to direct a debenture to be made forth and passed by the proper officers at the receipt of his The treasury to Majesty's exchequer, from time to time, for paying the said sum in direct debenmanner as aforesaid, as the same shall from time to time become due tures to be and payable, according to the true intent and meaning of this act; made out for which said warrant, and debenture to be made forth and passed thereon, the payment of respectively, shall be sufficient authority to the several and respective the said sum. officers of the receipt of the exchequer, now and for the time being, for the payment of such sum at the respective days to be appointed for such payments; without any further or other warrant to be sued for, had, or obtained in that behalf.

[No. XXV.] 3 & 4 W. IV. c. 51.—An Act to amend the laws relating to the Collection and Management of the Revenue of Excise. [13th August 1834.]

[No. XXVI.] 4 & 5 W. 4, c. 52.—An Act to amend an Act of the Twentieth Year of His Majesty King George the Second, for the Relief and Support of sick, maimed, and disabled Seamen, and the Widows and Children of such as shall be killed, slain, or drowned in the Merchant Ser-[13th August 1834.] vice; and for other Purposes.

WHEREAS by an act passed in the twentieth year of his Majesty 20 G. 2, c. 38. king George the second, intituled An Act for the Relief and Support of maimed and disabled Seamen, and the Widows and Children of such as shall be killed, slain, or drowned in the Merchants Service, a body corporate and politic was created by the name of "The President and Governors for the Relief and Support of sick, maimed, and disabled Seamen, and of the Widows and Children of such as shall be killed, slain, or drowned in the Merchants Service," and divers powers and privileges were thereby granted to the said corporation, and regulations made for the management thereof; and various provisions were by the said act made for the relief and support of maimed and disabled seamen, and the widows and children of such as shall be killed, slain, or drowned as aforesaid: and whereas another act was passed in the thirty-seventh year 37 G. 3, c. 73. of the reign of his Majesty king George the third, intituled An Act for preventing the Desertion of Seamen from British Merchant Ships trading to His Majesty's Colonies and Plantations Abroad: and whereas it is expedient to repeal some, and to extend and comprise in one act of parliament others of the provisions of the said two recited acts: Be it therefore enacted by the king's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in Repeal of certhis present parliament assembled, and by the authority of the same, tain parts of That from and after the thirty-first day of December one thousand eight recited acts. hundred and thirty-four, from which day (except as herein-after is expressly provided) this act shall commence and take effect, the whole of the said recited act of the twentieth year of the reign of his said late Majesty king George the second, except so far as the same relates to the incorporation and perpetual succession of the said body corporate and politic, or to the powers and authorities thereby vested in the said president and governors for receiving, possessing, and applying such sums of money as should be contributed, devised, or bequeathed to it, and for purchasing and holding lands and erecting an hospital, or to

No. XXVI. c. 52.

Proviso as to offences committed or penalties incurred.

President and governors empowered to seamen and their widows and children.

the rules and method thereby provided for supplying the places of the 4 & 5 W. 4, president and assistants or committees and governors or members thereof so often as vacancies shall occur, and making and altering the bye laws, constitutions, and ordinances of the said corporation; and so much of the said recited act of the thirty-seventh year of the reign of his said late Majesty king George the third as relates to the payment and appropriation to and for the uses and purposes therein mentioned of the wages of deceased seamen and other persons engaged in British merchant ships trading to the West Indies, and to the penalties and forfeitures thereby imposed, so far as the same are payable or recoverable on account of any infraction of the provisions of the said act respecting the payment and appropriation of such wages as aforesaid; be and the same are hereby declared to be repealed; Provided always, That all offences which shall have been committed, and all penalties and forfeitures which shall have been incurred, and all payments and duties to which any party shall have become liable, previous to the commencement of this act, against the provisions of the said acts, shall and may be punishable and recoverable under the said acts as if the same had not been repealed, although such payments and duties shall not in consequence of such liability have become actually receivable by the said president and governors until after the said thirty-first day of December.

II. That the said president and governors and their successors shall

and may and they are hereby authorized and empowered to provide, in such their hospital as aforesaid, for the reception of such seamen as shall relieve disabled be rendered incapable of present or future service by sickness, wounds, or other accidental misfortunes, and those who shall become decrepit or worn out by age, or shall provide for such seamen by allowing them certain pensions, or otherwise as to the said president and governors and their successors shall seem meet and most for the advantage of the said charity; and also to relieve the widows and children of such seamen as shall be killed, slain, or drowned in the said service; and also to relieve the widows and children of such seamen as shall die after having contributed during a term of twenty-one years to the funds of this corporation, provided such children are not of the age of fourteen years, or if of that age or upwards, not capable of getting a livelihood by reason of lameness, blindness, or other infirmities, and are proper objects of charity; and also to relieve the widows and children (such children being proper objects of charity as aforesaid) of such seamen as at the time of their death shall have been receiving or have been entitled to receive pensions, under and by virtue of this act, from the fund hereby to be created, as decrepit or worn-out seamen: Provided that no widow shall be entitled to any benefit under this act who shall not have been the wife of such seaman or pensioner before he became entitled to relief Seamen to pro- under the provisions of this act: Provided nevertheless, That no seaduce certificate man in the said service shall be entitled to any of the provisions or of the hurt they benefits of this act, on account of any hurt or damage he may have have received. received on board any ship or vessel, unless he shall produce or cause to be produced a certificate to the said president, assistants, and committees, of the hurt or damage he hath received, from the master, mate, boatswain, and surgeon, or so many of them as were in the ship or vessel to which such seaman belonged at the time of his receiving such hurt or damage, or of the master and two of the seamen if there be no other officer, or in case the master shall die, or be killed or drowned, then of the person who shall take upon him the care of the ship of vessel, and two of the seamen on board the same, under their hands and seals, thereby signifying how and in what manner such seaman received such hurt or damage, whether in fighting, defending, working, loading, or unloading the said ship or vessel, where and when he entered, and how long he had served on board the same; and the parties so signing and sealing such certificate shall and are hereby required to make oath of the truth of the contents thereof before some one of his Majesty's

Parties signing the certificate to make oath of the truth eof.

justices of the peace, if given in Great Britain or Ireland or other his No. XXVI. Majesty's dominions, or the chief officer of the customs of the port or 4 & 5 W. 4, place where there is no justice of the peace, or before the British consul or resident in any foreign country where such certificate is executed (who are hereby respectively authorized and required to administer the same without fee or reward); and in case of sickness, whereby such Certificates to seaman shall be rendered incapable of service, a certificate signed, be produced by scaled, and authenticated in like manner, signifying that he was healthy seamen diswhen he entered on board such ship or vessel, and that such sickness abled by sickwas contracted on board the same, or on shore in doing his duty in the ness, and by service of the ship, and not otherwise, and expressing the time and place widows and he entered on board such ship or vessel, and how long he had served children of therein; and that no widow, child, or children of any seaman killed, seamen. slain, or drowned in the said service, shall be relieved or entitled to any allowance by virtue of this act unless she or they, or some person on her or their behalf, shall produce a certificate, signed, sealed, and authenticated in like manner, signifying how and in what manner such seaman lost his life in the service of the said ship or vessel, the time and place he entered on board, and how long he had served therein; and that no widow, child, or children of any seamen in the said service shall be entitled to any relief by virtue of this act unless she or they shall produce or cause to be produced a certificate under the hands and seals of the minister and churchwardens and overseers of the poor of the parish, township, or place, or any two of them, or under the hands and seals of the minister and overseers of the poor of the parish, township, or place, or any two of them, where there are no churchwardens, or if in Scotland by the minister and elders, or if in Ireland by a justice of the peace for the parish, township, or place where such widow, child, or children shall at the time reside, and if such widow, child, or children are some of the people called Quakers, then by any two reputable persons of that persuasion of the parish, township, or place where such widow, child, or children have a legal settlement, or do inhabit and reside, to be attested by two or more credible witnesses, that such widow was the lawful wife and real widow, and that such child or children was or were the lawful child or children of such deceased seaman as aforesaid, and that such child or children is and are under the age of fourteen years, or if of that age or upwards, not capable of getting a livelihood by reason of lameness, blindness, or other infirmities, and is or are proper Decrepit seaobjects of charity; and that no seaman shall be provided for by a pen-men not entision or otherwise, as decrepit or worn out, unless such seaman shall tled to the have served in the merchant service for the space of five years, and shall benefit of this have during that time contributed and paid the monthly duty out of his act unless they wages, in and by the act of the twentieth year of the reign of king have served George the second herein-before recited, or in and by this act, required five years, and to be henceforward paid and deducted as the case may happen, for the contributed uses and purposes in and by this act provided.

III. Provided always, That if any person shall forge, counterfeit, Persons forgerase, or alter, or shall procure to be forged, counterfeited, erased, or ing, &c. certifialtered, or shall unfairly or unduly obtain, any certificate in order to cates to be entitle him or her to any of the pensions, allowances, or benefits of this punished. act, and shall produce or cause such certificate to be produced for that purpose, such certificate shall, upon discovery thereof, be null and void, and such person so applying for relief or provision shall be for ever incapable of receiving any of the benefits of this act, and shall be subject and liable to the like punishment as an incorrigible rogue is subject

and liable to, and shall be punished accordingly as such.

IV. That the said president, with any five or more of the said assist- President and ants or committees for the time being, shall make a full court of five assistants assistants or committees, and shall meet from time to time upon Wed- to make a nesdays weekly in or near the city of London, or at such other time or court, who are place as they shall think fit to appoint; and such court shall have to meet weekly. power, when assembled as aforesaid, in the name of the said corpo- The court m

monthly.

apply the n

c. 52. poration, and appoint the

officers and

their salaries;

Exception;

and do all other matters and things necessary.

All masters to pay 2s. per month.

No. XXVI. ration and on their account, to apply the monies arising and to 4 & 5 W. 4, be received by virtue of this act, or otherwise belonging to and vested in the said corporation, for the relief and support of such seamen, their widows and children, as are herein-before described, and nies of the cor. in case there shall be any surplus thereof, or any sum or sums of money shall be contributed and given for the purpose of this act by any welldisposed persons, to lay out the same in parliamentary securities, or to dispose of the same in the purchase of such lands, tenements, or hereditaments as are allowed to be purchased and held by the said corporation by the said recited act of the twentieth year of the reign of his said late Majesty George the second, and with and under their common seal to enter into any covenants or contracts for the purposes aforesaid, as they shall think fit for the better promoting and carrying into effect the provisions of this act; and to appoint and choose, and at their pleasure to remove, displace, and supply, any officers, servants, and other person and persons to be employed for the purposes herein mentioned and intended, or other the affairs of the said corporation (other than and except such officers and persons as by the said act of the twentieth year of the reign of his said late Majesty king George the second are directed to be chosen and appointed at a general court or assembly of the said corporation), and to direct and appoint such salaries, perquisites, and other rewards for their labour and service therein as they shall approve and think proper, and to do, manage, transact, and determine all such matters and things as to them or the greater part of them shall appear necessary and convenient for the effecting and carrying on the purposes hereby intended.

V. For effecting the ends and purposes aforesaid, That every master and owners of of any merchant ship or vessel belonging or to belong to any of the merchant ships subjects of his Majesty, his heirs or successors, and every owner being or vessels, &c. a British subject navigating or working his own ship or vessel, whether the said ship or vessel shall be employed on the high sea, or coasts of Great Britain or Ireland, or in any port, bay, or creek of the same, shall, from and after the thirty-first day of December one thousand eight hundred and thirty-four, pay, and there shall be allowed and paid by every such master or owner, two shillings per month of lawful money of Great Britain, and proportionably for a lesser time, during the time he or they shall be employed in or navigate or work such merchant ship or vessel, for the uses and purposes aforesaid: Provided always, That such masters or owners of such ships or vessels, or their widows and children under fourteen years of age, or being objects of charity as aforesaid, shall have and be entitled to have a proportionate increase of the pension or other allowance, as in and by this act is provided, according to the difference between the amount of the monthly duty hereby required to be paid by other seamen, mariners, and pilots, in case such master or owner shall have paid the said sum of two shillings per month for a period of five years or sixty months before any application to the said president and governors for relief under this act or the provisions thereof, or any of them; but in case any such master or owner shall be killed or drowned, or become decrepit and maimed or disabled, before he or they shall have paid such increased rate of two shillings per month for the full period of five years or sixty months as aforesaid, then such masters or owners, or their widows and children, shall have and be entitled to have and receive such smaller pension or allowance as the said president and governors, or the trustees to be appointed as herein-after mentioned shall think fit.

VI. That every seaman or other person whatsoever who shall serve or be employed by any person or persons whatsoever in any merchant sons serving on ship, or other private ship or vessel, belonging or to belong to any of the subjects of his Majesty, his heirs or successors, whether the said ships or vessels ship or vessel shall be employed on the high sea or coasts of Great Brito pay 1s. per tain or Ireland, or in any port, bay, or creek of the same, and every pilot employed on board any such ship or vessel, shall, from and after

All seamen or other perboard such

the thirty-first day of December one thousand eight hundred and thirty- No. XXVI. four, pay, and there shall be allowed and paid by every such seaman, 4 & 5 W. 4, pilot, or other person employed or that shall be employed, one shilling per month of lawful money of Great Britain, and proportionably for a lesser time, during the time he or they shall be employed in or belong to the said ship or vessel, for the uses and purposes aforesaid: Provided always, That this act shall not extend or be construed to extend to any person or persons who shall be employed in any boat upon any of the coasts of Great Britain and Ireland, or the islands of Guernsey, Jersey, Alderney, Sark, and Man, in taking fish, nor to any person or persons employed in boats or vessels that trade only from place to place within any river of Great Britain or Ireland.

VII. That the master, owner, or commander of every such merchant Masters of or private ship or vessel is hereby empowered and required to deduct ships to keep in and detain out of the wages, shares, or other profits payable or accruing their hands ls. to such seaman or other person employed on board such ship or vessel per month out (other than such persons as are hereby excepted), the said monthly of seamen's duty, and shall pay the same, together with the amount of the duty due Pay, and pay and owing from himself, to such officer or officers as shall on that be-over the same half be appointed by the said president and governors, or the trustees to to the receiver be appointed at any of the out ports in manner herein after provided. be appointed at any of the out-ports in manner herein-after provided, and their successors, for the collecting, recovering, and receiving the said duty of one shilling per month, if such seaman or other person shall

have or be entitled to any such wages, shares, or profits.

VIII. That it shall and may be lawful for the said president and Receivers to be governors, and their successors, at a full court of assistants or com-appointed for mittees, to appoint such person or persons as they shall think fit to be the port of receiver or receivers of the said duties of two shillings and one shilling London and per month at the port of London, and also depute and appoint the col-the outports, lectors or other officers of the customs of his Majesty, his heirs and who are to colsuccessors, in the several out-ports of Great Britain and Ireland, with over the duties the concurrence of the commissioners of the said customs, or such according to other persons as they shall think fit, to collect and receive the same instructions. (except in such out-ports and where separate trustees shall have been appointed by virtue of this act); which said receivers, as also the collectors and officers of the customs, are hereby empowered and required to collect, receive, and pay over the said duties according to such instructions and directions as shall be from time to time sent to them in writing by the said president and governors and their successors; and for the care and pains therein of the said collectors and other officers of the customs to be appointed to collect, recover, and receive the said duty, it shall and may be lawful for the said president and governors and their successors, at such court of assistants or committees as aforesaid, to make such allowance to them out of the said duties as they shall judge reasonable, so that the same do not exceed the sum of five pounds per centum on the gross amount thereof.

IX. That every master, commander, or owner of any merchant ship Masters to keep or other private ship or vessel navigating the same, or such other per- musterroll, and son as shall have the care thereof, shall keep a book by way of muster deliver dupliroll or account of the ship's company, signed by himself, in which cates thereof to shall be entered his own christian and surname, and the christian and the collectors. surnames of all the officers, seamen, and other persons employed in such ship or vessel, and over against each name the age, place of birth, and quality of such seaman or other person, and the time and place when he entered into the service of such ship or vessel; and such master, commander, or owner, or other person having the care of such ship or vessel shall continue to keep such book by way of muster roll during the whole course of the voyage, and shall from time to time enter therein when and where any such master, officer, seaman, or other person shall be discharged from or shall leave or desert such ship or vessel, and when and where any other officers and men shall be shipped on board, describing them in like manner as the persons who first en-

No. XXVI.

Receivers to not belonging to their port.

Penalty for neglect by masters, &c.

Masters of vessels to deduct penalties from wages of seamen, and deliver a verified account thereof to officers of president and der penalty of **201.**

Collectors may and examine of the muster rolls.

Masters reor to answer, - forfeit 10l.

tered on board are directed to be described, and when and where any 4 & 5 W, 4, of them received any hurt or damage, or were killed, slain, or drowned, or otherwise happened to die, in case there should be any such, together with a statement of the amount of wages due to them at the time of death or desertion, and of what clothes or other effects such deceased man shall have left on board; which said account shall be in the form, and shall contain a true and correct return under their respective heads of the several particulars expressed in the schedule marked (A.) and to this act annexed; a duplicate of which account shall, if required, be signed by the said master, commander, or other person having the care of the ship or vessel as aforesaid, and shall be delivered to the collectors or receivers of the said duties so appointed as aforesaid, at whatever port in Great Britain or Ireland any such ship or vessel shall report or discharge her cargo; and every such duplicates for vessels not transmit dupli- belonging to such port of discharge shall be forwarded by such receiver cates of vessels to the said president and governors, to be by them transmitted to the trustees of the port to which the vessel shall belong; and in case any such master, commander, or other person shall neglect to keep such muster roll or account, or shall neglect or refuse to deliver such duplicate as aforesaid, and in case such receiver or collectors shall neglect or refuse to transmit the duplicates which shall be delivered to them as aforesaid to the said president and governors, every such person so offending shall forfeit and pay for every such refusal or omission the sum of five pounds of lawful money of Great Britain.

X. That the master for the time being of every ship coming within the provisions of this act shall have authority to deduct out of the wages of the seamen thereof the amount of all forfeitures to be incurred by any such seamen, and every such master is hereby required correctly and truly to enter the same in a book to be by him kept for that purpose, which shall be signed by the master and the person next to him in the command of the ship, both of whom shall therein certify that it contains all the forfeitures which have been incurred by the seamen of governors, un. the ship during the voyage, to the truth whereof the master shall make oath when required by the officer of the said president and governors in London, or of the trustees at any of the out-ports, if any, and if not, to the respective receivers or collectors of the said president and governors at such out-ports appointed to receive the monies payable in respect of the wages of merchant seamen, which oath such officer is hereby authorized to administer; and the said book, or a true copy thereof signed and certified as aforesaid, shall, within one calendar month after the ship's return from her voyage, be delivered to the said officer by the master, together with extracts from the log book of the entries therein of the causes of the several forfeitures which are hereinbefore required to be made; and every master as aforeseid who shall refuse or neglect to deliver any such account as hereby required shall forfeit and pay the sum of twenty pounds.

XI. That it shall and may be lawful to and for the said collectors or summon mas- receivers, for the better discovery of what shall be due from the several ters of vessels, persons serving on board or belonging to any merchant ship or other private ship or vessel aforesaid, by warrant under his or their hand or them upon oath hands to summon every such master and commander, or in his absence as to the truth such owner or owners of such ship or vessel as aforesaid, to be and appear at the office of the said collectors or receivers respectively (so that the persons so summoned be not obliged to travel above ten miles for the making such appearance), which said collectors or receivers are hereby empowered and directed to examine every such master and commander or owner or owners as to the truth of the copy of such book or muster roll, and as to the number and times of service of all the several persons belonging to or employed in such ship or vessel, who are liable to or chargeable with the said duty; and if such masters or comfusing to appear manders, or in their absence such owner or owners, or any of them, shall refuse or neglect when so summoned to appear before the said respective persons hereby empowered to examine them in manner as afore. No. XXVI. said, or if they shall appear and obstinately refuse to make a full and 4 & 5 W. 4, true discovery of the matters aforesaid, then and in every such case all and every such offender or offenders for every such refusal shall forfeit

the sum of ten pounds of lawful money of Great Britain.

XII. And for the more easy and effectual collection of the said duties Secretaries. of and from the masters, commanders, and owners of merchant's ships &c. of public or other private ships or vessels that are or shall be hired or employed offices to give on monthly charter by the several departments of the navy, victualling, in a list of ships ordnance, customs, post office, or other public offices for or in the ser-employed in vice of his Majesty, his heirs or successors; be it further enacted. That their service. the secretaries, or chief clerks of the aforesaid offices or departments respectively shall once in every year, upon the first day of January in each year, or within twenty days next following at the farthest, upon application being made to them by the said president and governors for that purpose, give and deliver to the receiver or receivers of the said duties in the port of London a true and exact list or account of the number and names of all and every the ships or vessels that in the year preceding every such account shall have been hired or employed by the commissioners or other officers of every such office respectively for or in the service of his Majesty, his heirs or successors, and of all and every the ships and vessels which, at the time of delivering in such account, remain in the service of every such office or department respectively, and of all such as between every such account shall be discharged from such service, and of the names of the masters, commanders, and owners of all and every such ships and vessels respectively, and also of the numbers of seamen or other persons that shall from time to time be employed in every such ship or vessel; and that no treasurer, Treasurers, paymaster, or other officer of or belonging to any such public office or &c. of such offices shall make out or pay any bill for the freight of any ship or offices to pay vessel so hired or employed, or to be hired or employed, for or in the no wages or service of his Majesty, his heirs and successors, as aforesaid, or pay freight to any any wages to any master, commander, or other persons employed or that master, &c. unshall be employed in any such ship or vessel, until every such master, til he produce commander, or owner respectively shall and do produce and show unto an acquittance such treasurer, paymaster, or other officer respectively an acquittance or signed by recertificate signed by the said receiver or receivers, or his or their deputy ceiver of duties. or deputies for the time being, whereby it shall appear that such master, commander, or owner hath duly and fully paid and discharged the said duties payable by virtue of this act, and that he is not more than three months in arrear for the same.

XIII. That all and every the masters, commanders, and owners of all Duties to be merchant ships and other private ships and vessels whatsoever by this paid at the port act made liable to the payment of the said duties of two shillings per where any ship month and one shilling per month, shall pay all such monies as shall or vessel shall from time to time be due from them and every of them respectively for unload her or on account of the said duties to the collectors and receivers ap- cargo. pointed in pursuance of this act or of the said act of the twentieth year of the reign of his said late Majesty king George the second, at whatever port in the said united kingdom of Great Britain or Ireland any such ship or vessel shall report or discharge her cargo, and before any such ship or vessel shall be cleared inwards by the officers of the customs of his Majesty, his heirs or successors, in any such port; and that no customer, collector, comptroller, receiver, surveyor, searcher, waiter, or other officer of the customs of his Majesty, his heirs or successors, shall at any time hereafter clear inwards any merchant ship or any private ship or vessel whatsoever by this act made liable to the payment of the said duties, or grant any warrant, or give or grant out any cockets, transire, returns, or discharges unto or for any ship or vessel whatsoever, or shall permit or suffer any such ship or vessel to go out of any of the ports before mentioned, until the said master, commander, or owner or owners of every such ship or vessel respectively

Receivers to not belonging to their port.

Penalty for neglect by masters, &c.

Masters of vessels to deduct penalties from wages of seamen, and deliver a verified account thereof to officers of president and **201.**

Collectors may summon masand examine of the muster rolls.

Masters reor to answer. forfeit 10l.

No. XXVI. tered on board are directed to be described, and when and where any 4 & 5 W. 4, of them received any hurt or damage, or were killed, slain, or drowned, or otherwise happened to die, in case there should be any such, together with a statement of the amount of wages due to them at the time of death or desertion, and of what clothes or other effects such deceased man shall have left on board; which said account shall be in the form, and shall contain a true and correct return under their respective heads of the several particulars expressed in the schedule marked (A.) and to this act annexed; a duplicate of which account shall, if required, be signed by the said master, commander, or other person having the care of the ship or vessel as aforesaid, and shall be delivered to the collectors or receivers of the said duties so appointed as aforesaid, at whatever port in Great Britain or Ireland any such ship or vessel shall report or discharge her cargo; and every such duplicates for vessels not transmit dupli- belonging to such port of discharge shall be forwarded by such receiver cates of vessels to the said president and governors, to be by them transmitted to the trustees of the port to which the vessel shall belong; and in case any such master, commander, or other person shall neglect to keep such muster roll or account, or shall neglect or refuse to deliver such duplicate as aforesaid, and in case such receiver or collectors shall neglect or refuse to transmit the duplicates which shall be delivered to them as aforesaid to the said president and governors, every such person so offending shall forfeit and pay for every such refusal or omission the sum of five pounds of lawful money of Great Britain.

X. That the master for the time being of every ship coming within the provisions of this act shall have authority to deduct out of the wages of the seamen thereof the amount of all forfeitures to be incurred by any such seamen, and every such master is hereby required correctly and truly to enter the same in a book to be by him kept for that purpose, which shall be signed by the master and the person next to him in the command of the ship, both of whom shall therein certify that it contains all the forfeitures which have been incurred by the seamen of governors, un- the ship during the voyage, to the truth whereof the master shall make der penalty of oath when required by the officer of the said president and governors in London, or of the trustees at any of the out-ports, if any, and if not, to the respective receivers or collectors of the said president and governors at such out-ports appointed to receive the monies payable in respect of the wages of merchant seamen, which oath such officer is hereby authorized to administer; and the said book, or a true copy thereof signed and certified as aforesaid, shall, within one calendar month after the ship's return from her voyage, be delivered to the said officer by the master, together with extracts from the log book of the entries therein of the causes of the several forfeitures which are hereinbefore required to be made; and every master as aforeseid who shall refuse or neglect to deliver any such account as hereby required shall forfeit and pay the sum of twenty pounds.

XI. That it shall and may be lawful to and for the said collectors or receivers, for the better discovery of what shall be due from the several ters of vessels, persons serving on board or belonging to any merchant ship or other private ship or vessel aforesaid, by warrant under his or their hand or them upon oath hands to summon every such master and commander, or in his absence as to the truth such owner or owners of such ship or vessel as aforesaid, to be and appear at the office of the said collectors or receivers respectively (so that the persons so summoned be not obliged to travel above ten miles for the making such appearance), which said collectors or receivers are hereby empowered and directed to examine every such master and commander or owner or owners as to the truth of the copy of such book or muster roll, and as to the number and times of service of all the several persons belonging to or employed in such ship or vessel, who are liable to or chargeable with the said duty; and if such masters or comfusing to appear manders, or in their absence such owner or owners, or any of them, shall refuse or neglect when so summoned to appear before the said respective persons hereby empowered to examine them in manner as afore. No. XXVI. said, or if they shall appear and obstinately refuse to make a full and 4 & 5 W. 4, true discovery of the matters aforesaid, then and in every such case all and every such offender or offenders for every such refusal shall forfeit

the sum of ten pounds of lawful money of Great Britain.

XII. And for the more easy and effectual collection of the said duties Secretaries. of and from the masters, commanders, and owners of merchant's ships &c. of public or other private ships or vessels that are or shall be hired or employed offices to give on monthly charter by the several departments of the navy, victualling, in a list of ships ordnance, customs, post office, or other public offices for or in the ser-employed in vice of his Majesty, his heirs or successors; be it further enacted, That their service. the secretaries, or chief clerks of the aforesaid offices or departments respectively shall once in every year, upon the first day of January in each year, or within twenty days next following at the farthest, upon application being made to them by the said president and governors for that purpose, give and deliver to the receiver or receivers of the said duties in the port of London a true and exact list or account of the number and names of all and every the ships or vessels that in the year preceding every such account shall have been hired or employed by the commissioners or other officers of every such office respectively for or in the service of his Majesty, his heirs or successors, and of all and every the ships and vessels which, at the time of delivering in such account, remain in the service of every such office or department respectively, and of all such as between every such account shall be discharged from such service, and of the names of the masters, commanders, and owners of all and every such ships and vessels respectively, and also of the numbers of seamen or other persons that shall from time to time be employed in every such ship or vessel; and that no treasurer, Treasurers, paymaster, or other officer of or belonging to any such public office or &c. of such offices shall make out or pay any bill for the freight of any ship or offices to pay vessel so hired or employed, or to be hired or employed, for or in the no wages or service of his Majesty, his heirs and successors, as aforesaid, or pay freight to any any wages to any master, commander, or other persons employed or that master, &c. unshall be employed in any such ship or vessel, until every such master, til he produce commander, or owner respectively shall and do produce and show unto an acquittance such treasurer, paymaster, or other officer respectively an acquittance or signed by recertificate signed by the said receiver or receivers, or his or their deputy or deputies for the time being, whereby it shall appear that such master, commander, or owner hath duly and fully paid and discharged the said duties payable by virtue of this act, and that he is not more than three months in arrear for the same.

XIII. That all and every the masters, commanders, and owners of all Duties to be merchant ships and other private ships and vessels whatsoever by this paid at the port act made liable to the payment of the said duties of two shillings per where any ship month and one shilling per month, shall pay all such monies as shall or vessel shall from time to time be due from them and every of them respectively for unload her or on account of the said duties to the collectors and receivers ap- cargo. pointed in pursuance of this act or of the said act of the twentieth year of the reign of his said late Majesty king George the second, at whatever port in the said united kingdom of Great Britain or Ireland any such ship or vessel shall report or discharge her cargo, and before any such ship or vessel shall be cleared inwards by the officers of the customs of his Majesty, his heirs or successors, in any such port; and that no customer, collector, comptroller, receiver, surveyor, searcher, waiter, or other officer of the customs of his Majesty, his heirs or successors, shall at any time hereafter clear inwards any merchant ship or any private ship or vessel whatsoever by this act made liable to the payment of the said duties, or grant any warrant, or give or grant out any cockets, transire, returns, or discharges unto or for any ship or vessel whatsoever, or shall permit or suffer any such ship or vessel to go out of any of the ports before mentioned, until the said master, commander, or owner or owners of every such ship or vessel respectively

c. 52.

No. XXVI. shall and do produce and show forth unto such officer or officers an 4 & 5 W. 4, acquittance or certificate, signed by the said receiver or receivers, collectors or collector of the said duties, whereby it shall appear that such master, commander, or owners have duly and fully paid the said duties, and are not more than three months in arrear for the same, or that they are exempt from the payment of the said duties by virtue of the exceptions herein contained; and that every master, commander, or owner of any such ship or vessel who shall refuse or neglect to pay the said duty or duties in manner and within the time herein-before limited and appointed for payment thereof, and also every customer, collector, comptroller, receiver, surveyor, searcher, waiter, and other officer of the customs who shall make default in any of the premises enjoined them respectively by this act, or shall in anywise act contrary to the directions herein-before mentioned, shall for every such refusal, neglect, default, or act, forfeit the sum of ten pounds of lawful money of Great Britain; and that the amount of such duties as shall be received in pursuance of this act, so far as the same shall be derived from the duty imposed upon the masters, commanders, or owners, and seamen, or in respect of the wages of the masters, commanders, or owners, and seamen, in such ships or vessels as shall not belong to the particular port at which such ships or vessels shall be reported or discharge their cargoes, shall be and the same is hereby required to be remitted by the collectors or receivers of the said duty at the port aforesaid to the receiver of the port of London, and that the same shall, when so received by him, be transmitted by him to the trustees (if any) of the several ports to which every such ship or vessel shall respectively belong: Provided always, That it shall and may be lawful for the master, commander, or owner of any merchant ship or private ship or vessel which shall belong to any of the out-ports at which trustees shall have been appointed for the purposes herein-after mentioned under the provisions of this act or by virtue of the said act of his late Majesty king George the second, to enter into an agreement in writing with the trustees and receiver or collector for such out-port, with the intent that the whole of the duties payable under this act on account of the said ship or vessel; and so often as the same shall be employed, may be paid to the said receiver or collector of the said out-ports by half-yearly payments; that is to say, within twenty-one days after the thirtieth day of June and thirty-first day of December respectively in every year; and that it shall and may be lawful for the masters or owners of any ship or vessel employed in the coasting trade, or only going from one port to another in any part of the coasts of Great Britain or Ireland, to enter into a similar agreement with the receiver or collector and the trustees of any of the ports to which such ship or vessel may belong; and that every such master, commander, or owner, having entered into any such agreement as aforesaid on account of any ship or vessel, shall not be required to make any payment on account of the said duties at any port at which the said ship or vessel shall report or discharge its cargo other than that to which it belongs, nor shall such master or owner be exposed to any of the penalties, nor the said ship or vessel be in any way delayed or impeded by the said officers of his Majesty's customs, or any other person, in consequence of such nonpayment at any other port than as aforesaid, provided such master or owner produces before the collector or receiver for the port at which such ship or vessel shall report or discharge her cargo a certificate of the agreement herein-before mentioned, to be signed by the collector or receiver for the port to which such ship or vessel belongs; and such half-yearly payments of the said duties shall be enforced in the same manner and under the same penalties as are herein-before provided for the general collection of the duties to be levied under the provisions of this act: Provided always, That a yearly statement of the sums so received and distributed at each such port be made and published in one of the county or other newspapers

Master or owner may enter into agreement with trustees and collectors for half-yearly payments.

Certificate of such agreement.

Payment under such agreement to be enforced.

circulating in the district.

XIV. And to prevent unnecessary delays in clearing ships and No. XXVI. vessels, be it further enacted, That in case the master, commander, or 4 & 5 W. 4, owner of any ship or vessel liable to the payment of the duties aforesaid, shall not produce such acquittance or certificate of payment, or of an agreement for such half-yearly payment to be made at the port to If masters fail which such ship or vessel belongs, as is herein-before mentioned, to the to produce protide surveyor when he shall come on board in order to clear such ship per certificates, or vessel, the tide waiters on board such ship or vessel shall be con-tide waiters to tinued until such acquittance or certificate is produced, at the expence be continued of such master, commander, or owner, and not at the expence of the on board at

XV. That the penalties and forfeitures by this act provided to be paid Penalties by by any master or owner of any such merchant ship or vessel shall be this act recoverrecoverable before any magistrate or justice of the peace of the port or able before a place at which any such ship or vessel shall be reported or shall dis-magistrate. charge her cargo as aforesaid; and that notice of any application for Service of norecovering any such penalty or penalties before such magistrate or tice of applicajustice of the peace which shall have been served on the owner, master, tion. or commander, broker or agent of any such ship or vessel, shall be deemed sufficient notice.

XVI. And whereas the masters, commanders, and other officers and Owners and seamen employed in ships or vessels belonging to persons residing at masters of ships some of the out-ports of Great Britain or Ireland may be desirous of of any of the having the said several duties of two shillings per mensem and one outports emshilling per mensem to be allowed and paid by them out of their wages powered to as aforesaid, placed under the direction and management of persons meet and apresiding in or near to such out-ports respectively; be it therefore enacted, point trustees That from and after the first day of October one thousand eight hundred for the said and thirty-four, and without being compelled to wait until this act for duties, who are the other general purposes herein mentioned is to commence and take to continue till effect as is aforesaid, it shall and may be lawful to and for the owners of 26th December and the masters and commanders employed on board the ships and in each year. vessels belonging to persons residing at any of the said out-ports to assemble and meet at any proper time and place within the limits of the said out-ports that shall be by any five or more of them appointed by giving ten days' previous notice, to be fixed at the custom house, wharf, quay, or any other public place at such respective out-port; and such owners, masters, and commanders, or the greater part of them, being so assembled as aforesaid, are hereby authorized and empowered from time to time to nominate and appoint, by an instrument in writing under their hands and seals, fifteen persons to be trustees for such outport, for receiving, collecting, and applying the said duties of two shillings per mensem and one shilling per mensem, to be allowed, collected, and received, by virtue of this act, at such respective out-port, for relief and support of the seamen employed on board the ships or vessels belonging to such persons respectively, and their widows and children, as shall be entitled thereto by virtue of this act; which said trustees shall continue to act until the twenty-sixth day of December one thousand eight hundred and thirty-five, and until new trustees are nominated, appointed, and confirmed; and that within ten days after New trustees the twenty-sixth day of December in each succeeding year, the owners, to be chosen masters, and commanders at such respective out-ports shall have power yearly, and to meet and choose fifteen persons to be trustees for the year ensuing, by an instrument of instrument in writing under the hands and seals of the owners, masters, election to be and commanders, or the majority of them so assembled, having given confirmed by previous notice in the manner herein-before directed; which said president, &c. respective trustees shall continue from time to time until new trustees are nominated, appointed, and confirmed as aforesaid; and the said instrument shall be sent, free of expence, to the president and assistants or committees of the said corporation, who are hereby authorized and required to confirm the same under the common seal of the said corpo-

No. XXVI. thereof; which said trustees when they shall be so confirmed as afore-

and appoint officers.

Instrument of cember.

Appointments in five years.

this act.

The corporachants ventees for the ceived there;

4 & 5 W. 4, said (and whereof five shall be a quorum) shall be vested with and have the same powers and authorities to make bye-laws, and to revoke or alter the same, and to take, receive, and apply any sum or sums of Five trustees to money which shall be contributed, devised, or bequeathed by any wellbe a quorum, disposed persons for the purposes aforesaid, and to appoint receivers with power to and other officers, and to collect, recover, receive, pay, and apply the make bye-laws said duties of two shillings per month and one shilling per month so to be allowed and paid by the seamen or other persons serving on board any ship or vessel belonging to such persons respectively at such outports as aforesaid, according to such rules, orders, and regulations as are or shall be established by virtue and in pursuance of this act, or have been established and continued under the provisions of the said act of the twentieth year of the reign of his said Majesty George the second, so far as the same are not inconsistent with or repealed or varied by the provisions of this act; and the said receivers and other officers shall have the same powers and authorities as the other receivers and officers to be appointed in pursuance of this act, and shall be subject and liable to the same penalties and forfeitures, any thing herein contained to the contrary thereof in anywise notwithstanding: Provided always, That if the said instrument of trust in this act mentioned trust to be for-shall not be sent to the president and assistant or committees within warded to pre-sixty days after every such nomination and appointment of trustees, when any such shall have taken place, the trust thereby created shall be vernors within considered void, and the trustees appointed under it as discharged from sixty days after every 26th De- the said trust; and that the said president and governors and their successors duly appointed shall have power to appoint a receiver or receivers for the port or place from which such instrument of trust shall not have been sent as aforesaid, for the purpose of collecting the duties and allowances payable under and by virtue of this act at such port or place aforesaid; and that the said president and governors and their successors shall have power to demand and receive from the outgoing trustee or trustees of such port or place aforesaid an account in writing of the former management of such void trust, and also to demand the payment from such trustee or trustees of any balance which may at the time of such default be in the hands of such trustee or trustees, who are hereby required to pay and deliver over the same to such receiver so to be appointed as aforesaid, together with the books of account and other books belonging to such trustee or trustees relative to such trust.

XVII. That where, on the default or neglect aforesaid, any such on default not receiver or receivers shall be appointed, such appointment shall not be revocable with- revocable within five years after the same shall have been so made,

except by the said president and governors as they shall see fit

XVIII. And whereas trustees have been nominated and appointed at tofore appoint- many of the out-ports of England for similar purposes to those hereby ed at the several provided under and by virtue of the said act of his Majesty king George out-ports to be the second; be it further enacted, and it is hereby declared, That all subject to the such trustees are to be deemed within and subject to the provisions of this act in the same manner as if they had been nominated, appointed, and confirmed under and by virtue thereof; and all such trustees are hereby empowered to continue to act in their respective trusts until the twenty-sixth day of December one thousand eight hundred and thirtyfive, or until new trustees shall have been appointed, nominated, and confirmed by virtue of this act.

XIX. And whereas by letters patent bearing date the eighteenth day tion of the mer- of December in the sixth year of the reign of king Edward the sixth, certain merchants therein named, and their successors, residing in the turers of Bristol city and port of Bristol, are incorporated by the name of "The Master, appointed trus- Wardens, and Commonalty of Merchant Venturers of the city of Bristol," which said society of merchants are willing, for the benefit of duties, &c. re- the seamen employed on board ships and vessels in the service of merchants and other traders belonging to the said city and port, to under-

take the collection and application of the duties payable under this act No. XXVI. at the said city and port, and to continue to exercise the powers and 4 & 5 W.4, authorities and to discharge the trusts vested in them by the said act of the twentieth year of the reign of king George the second, except so far as the same are varied or revoked by this act; be it further enacted, That the master, wardens, assistants, and treasurer of the said incorporated society for the time being shall be trustees, and shall have and be vested with the like powers and authorities for collecting, recovering, receiving, and applying the said duties of two shillings per month and one shilling per month to be allowed, collected, and received by virtue of this act at the said city and port, and for taking, receiving, and applying any sum or sums of money which shall be contributed, devised, or bequeathed by any well-disposed persons for the relief and support of the seamen employed in the ships and vessels belonging to the merchants and traders residing at the said city and port, and their widows and children, as shall be entitled thereto by virtue of this act, and to appoint and continue receivers and other officers for the purposes aforesaid, as are given by this act to the said president and governors, according to such rules, orders, and regulations as are or shall be established by virtue of this act, or having been established by virtue of the said act of the reign of king George the second, are not inconsistent with or revoked by the provisions of this act; and such receivers and officers shall have the same powers and authorities as the other receivers and officers appointed or continued by virtue of this act, and shall be subject and liable to the same penalties and forfeitures; and the said master, wardens, assistants, and treasurer shall also have and empowpower to take, receive, and hold any lands, tenements, and heredita- ered to hold ments in such manner and for the like purposes only as the said lands for the president and governors are by this act or by the said act of the purpose of this twentieth year of the reign of king George the second empowered to act. take, receive, and hold lands, tenements, and hereditaments, any thing herein contained to the contrary thereof in anywise notwith-

standing. XX. And whereas the guild or brotherhood of masters and pilots Theguild of the seamen of the Trinity house of the town and port of Kingston-upon-Trinity house Hull, are willing, for the benefit of the seamen employed on board of Kingstonships and vessels in the service of merchants and other traders be-upon-Hull aplonging to the said town and port, to undertake the collection and applifor the duties,

cation of the said duties payable under this act at the said town and &c. received port, and to continue to exercise the powers and authorities and dis-there. charge the trusts vested in them by the said act of the twentieth year of the reign of king George the second; be it therefore enacted, That the guild or brotherhood of masters and pilots seamen of the Trinity house of the town and port of Kingston-upon-Hull for the time being shall be trustees, and shall have and be vested with the like powers and authorities for collecting, recovering, and applying the said duties of two shillings per month and one shilling per month to be paid at the said town and port, and for taking, receiving, and applying bequests and donations for the purposes aforesaid, and for appointing and continuing

receivers and other officers, as are given and granted by virtue of this act to the president and governors aforesaid, according to such rules, orders, and regulations as are or shall be established by virtue of this act, or being established under and by virtue of the said act of the twentieth year of the reign of king George the second, are not incon-

sistent with or revoked by the provisions of this act; and such receivers and other officers shall have the same powers and authorities as the other receivers and officers to be appointed or con-

tinued under this act, and shall be subject to the like penalties and forfeitures, any thing herein contained to the contrary thereof

notwithstanding.

XXI. And whereas it is expedient that the port of the city of Glasgow, The ports of

Glasgow, &c. to be deemed one united port, and masters of ships belonging thereto to elect trustees for collecting duties, &c.

No. XXVI. the port of Greenock, and the ports of Port Glasgow, Crawford's Dyke, 4 & 5 W. 4, Gourock, and their dependencies, all situate and being on the river or firth of Clyde in Scotland, shall be deemed and taken as one united port for the purposes of this act: be it therefore enacted, That the said Glasgow, Gree- port of the city of Glasgow, the port of Greenock, and the ports of Port nock, and Port Glasgow, Crawford's Dyke, Gourock, and their dependencies, all situate and being on the river or firth of Clyde, shall, for the purposes of this act, be held, deemed, and taken as one united port; and that it shall and may be lawful for the owners, masters, and commanders of ships and vessels belonging to persons residing at any of the said united ports of Glasgow, Greenock, Port Glasgow, Crawford's Dyke, Gourock, and their dependencies, to assemble and meet at Glasgow, upon notice given for that purpose in the manner herein-before directed, and such owners, masters, and commanders, or the greater part of them, being so assembled, are hereby authorized and empowered from time to time to make bye-laws, and elect and appoint fifteen persons to be trustees for such united port, of whom five shall be resident at each of the said ports of Glasgow, Greenock, and Port Glasgow, for the purposes of this act; and which said trustees shall be invested with all the powers and authorities that are given and granted by virtue of this act to the trustees of any other out port, and shall have and be vested with full power and authority for recovering, collecting, receiving, and applying all such rates and duties as may be deemed adequate for the relief of the sick, worn-out, and decayed seamen belonging to the said ports and their dependencies, and their widows and families, not exceeding in the whole the said duties of two shillings per month and one shilling per month, to be allowed, collected, and received by virtue of this act at the said united ports of Glasgow, Greenock, Port Glasgow, Crawford's Dyke, Gourock, and their dependencies, and for taking, receiving, and applying any sum or sums of money which may have been or shall be contributed by any well-disposed persons, or which may have been or shall be otherwise collected for the relief and support of the seamen employed in the ships and vessels belonging to the merchants and traders residing at the said united ports of Glasgow, Greenock, Port Glasgow, Crawford's Dyke, Gourock, and their dependencies, or either of them, and their widows and children, as shall be entitled thereto by virtue of this act, any thing herein contained to the contrary thereof in anywise notwithstanding.

Trustees of outthe yearly receipts and expenditure to president and governors.

XXII. That all and every the trustees for the several out-ports who ports to trans- now are or shall be appointed under and by virtue of the act of the mit account of twentieth year of the reign of his said late Majesty king George the second, or of this act, shall and they are hereby required to transmit annually, within sixty days after every thirty-first day of December in every year, to the said president and governors, a true and correct account of the receipts and expenditure during the year of such their several trusts, conformable to a form or plan to be prescribed and forwarded by the said president and governors, under the penalty of twenty pounds, to be recovered and recoverable before a magistrate or justice of the peace as other penalties given by this act; and that such account of the receipts and expenditure of such trustees, together with an account of the receipts and expenditure of such president and governors, shall be annually laid before the honourable the House of Commons.

Collectors appointed by duplicate of the president and assistants.

XXIII. That nothing herein contained shall be construed to extend to oblige the receivers or collectors of the said duty appointed by the trustees or cor- trustees of any of the said respective out-ports to send the duplicates of porations afore- the muster rolls hereby directed to be delivered to the receivers and said not to send collectors of the said duties in the manner herein-before mentioned, to the said president and assistants or committees, for any vessels bemuster rolls to longing to the ports where such payment shall be made, but such duplicate shall be delivered by such collectors or receivers to the said

respective trustees, and to be by them filed and preserved for their use No. XXVI.

and inspection.

XXIV. Provided always, and be it hereby declared, That no seaman or other person employed on board any merchant ship, steam packets, or other private ship or vessel shall be entitled to receive any provision No seamen to or benefit by virtue of this act, at the port of London or elsewhere, have the beneunless he be subject or liable to the said duty hereby imposed, and shall fit of this act pay the same when and where the same shall be required of him by unless he pays virtue of this act.

XXV. Provided also, and be it hereby declared, That those seamen Those who who shall have been longest in the said service, and contributed most have served towards the said duties, shall be first provided for as worn out or longest to be

decrepit.

XXVI. And whereas it may happen that seamen or other persons Maimed seaemployed on board ships or vessels may by accident in loading or un- men to be proloading the same, or otherwise by doing such duty on shore as well as vided for at the on board such ships or vessels, receive such hurt or damage that port where the it may endanger their lives to send them to the port to which the accident hapships or vessels respectively belong; Be it therefore further enacted, pens. That in case any seaman or other person employed on board any merchant ship or private ship or vessel shall, in doing his duty on shore, or on board any such ship or vessel while in a port other than that to which the said ship or vessel shall belong, break an arm or leg, or be otherwise hurt or maimed, so that it is necessary that immediate care should be taken of him, it shall and may be lawful for the said president and governors at the port of London, and the respective trustees for the out-ports, as the case may be, and they are hereby required, to provide proper relief for every such seaman or other person that shall be so hurt or maimed at their respective ports, until he shall be so well recovered from such hurt or damage as to be removed and sent with safety to the port to which the ship or vessel in which such seaman was at the time of the accident employed shall belong; and the expence of relieving and maintaining such seaman until he be so removed as aforesaid, and also the expence of removing him, not exceeding two-pence per mile, shall be repaid to the said president and governors at the port of London, or to the trustees, if any, for the respective out-port at which the accident shall have happened, by the trustees of the port to which such ship or vessel shall belong.

XXVII. That in case any seaman or other person shall serve five Disabled seayears or more on board merchant or other ships or vessels belonging to men having different ports, and shall have paid the monthly duties for that entire served and paid period, and shall have become decrepit and worn out, and adjudged five years to be either by the said president and assistants or committees, or by the provided for trustees at any of the out-ports, a proper object of relief, such person where they shall be provided for and relieved at the port where he shall have con- have condition for the last five buted most. tributed and paid the greatest part of the said duties for the last five years of his service, any thing herein contained to the contrary notwith-

standing.

XXVIII. And whereas it may happen that seamen or other persons Seamen who employed in the merchant service within the limits of this act may be have been shipshipwrecked, or taken by the enemies of his Majesty, and on their wrecked or return from shipwreck or imprisonment may be returning with passes made prisoners to the places of their respective abodes; be it further enacted, That it by the enemy, shall and may be lawful for the said president and governors, or the may be rerespective trustees, if they think fit, to relieve any such seaman or other lieved. person in such manner as they shall think proper.

XXIX. And whereas there may be some circumstances wherein some Where regular of the respective certificates herein-before mentioned cannot be obtained; certificates be it therefore enacted, That in all cases where the certificates directed cannot be obto be produced by this act for the purpose of entitling the parties pro- tained, others ducing the same to relief and support cannot be obtained, such other may be adcertificates as shall be satisfactory to the said president and governors or mitted.

4 & 5 W. 4,

c. 52.

first provided for.

No. XXVI. trustees respectively shall be received and allowed so as to entitle the 4 & 5 W. 4, party producing the same to the pensions or other relief provided by this act.

to be paid to ship's arrival, to the use of the executor, &c.

XXX. That all and every sum and sums of money which shall be due Wages of de- for wages to any seaman, mariner, or other person hired or engaged on ceased seamen board any British merchant ship in any port or ports in Great Britain or Ireland, who shall have died on board during the voyage, shall, within the trustees of three months after the arrival of such merchant ship in any port or ports the port on the of Great Britain and Ireland, be paid to the trustees of the said port to be appointed in pursuance of this act, or to the receiver or collector or other authorized agent of the said president and governors, where there are no such trustees, to and for the use of the executor or executors, administrator or administrators of the seaman, mariner, or other person so dying; and in case no claim shall be made on the said trustees by the executors or administrators of such seaman, on account of such wages, within one year after the same shall have been paid over as aforesaid, that then the said trustees of the said port shall remit the same to the collector or receiver of the said president and governors, or other their authorized agent at the port of London, in such manner and at such times as the said president and governors shall direct, to and for the use of the executor or executors, administrator or administrators of the seaman, mariner, or other person so dying; and in case no claim shall be made on the said president and governors by the executors or administrators of such deceased seaman, on account of such wages, within one year after the same shall have been first paid over to any collector, receiver, or agent of the said president and governors, then it shall be lawful for the said president and governors to direct such wages to be paid over (but without interest for the same) to the widow, or if there be no widow claiming, then to the lawful issue respectively, or such persons as by virtue of the statutes of distribution of intestate's effects shall be entitled to the same; and if any master or commander of any such merchant ship shall neglect or refuse to pay over or tender to the said trustees, or the receiver or collector at the port aforesaid, all and every such sum and sums of money within the time herein-before limited, he shall forfeit and pay for every such offence double the amount of the sum or sums of money so due to any seaman, mariner, or other person for wages aforesaid.

If not demanded in three to the use of the president of the respective ports.

XXXI. Provided always, That all and every such sum and sums of money as shall not be lawfully demanded of the said receiver, collector, or other years by repre- authorized agent of the said president and governors at the port of Lonsentatives, then don by any legal representative, or widow or issue, or other person hereby authorized, as the case may be, within the term of two years after the first payment thereof to any collector or agent of the said president and governors, and governors, shall be forfeited, and shall go and be paid to the use of or the trustees the said president and governors, or to the trustees of the port, if any, to which such ship belongs, by such receiver, collector, or other authorized agent of the said president and governors at the port of London aforesaid.

President and governors to them from seamen in the port of London to the seamen's hospital society in that port.

XXXII. And whereas by an act passed in the last session of this present parliament, intituled An Act for incorporating the members of a pay 5 per cent. Society commonly called The Seamen's Hospital Society, and their Succesout of the du-sors, as therein is mentioned and provided; and for the better enabling and ties received by empowering them to carry on the charitable and useful Designs of the said Society, a certain society was incorporated by the name of the seaman's hospital society: And whereas the said society was instituted for the charitable relief of sick and distressed seamen in the port of London, and for the providing them with medical and surgical aid, lodging, support, and clothing until convalescent: And whereas it is expedient to provide some permanent funds for enabling the said society to carry on their said charitable designs; be it therefore enacted, That the said president and governors, and their successors, or their treasurer or other officer for the time being on their behalf, shall and do, from and after this act shall take effect, from time to time pay over to the said seaman's No. XXVI. hospital society, or their treasurer for the time being, the amount of 4 & 5 W. 4, five pounds in every one hundred pounds, and in the same proportion for any greater or less sum, on the net amount to be collected and received by the said president and governors and their successors, and by their receiver, collector, or other authorized agent at the port of London for the aforesaid duties of two shillings per mensem and one shilling per mensem hereby made payable, so far as the same shall be derived from the duty imposed upon seamen, or in respect of the wages of seamen, in such ships or vessels as shall belong to the said port of London, such payments to be made to the said seamen's hospital society, or their treasurer for the time being, every three months; (that is to say,) on the day of day of on the day of in every year; and the first of such the day of payments to be made on such of the said days as shall happen next after this act shall take effect; all such payments to be applied by the said seamen's hospital society according to the directions of the aforesaid act of the last session of this present parliament.

XXXIII. That it shall and may be lawful to and for the said receiver Five per cent. or collector or other authorized agent of the said president and governors to be deducted at the port of London aforesaid, and he is hereby authorized, to deduct from gross and receive from the gross amount of such sum or sums of money as amount in lieu shall be derived from the unclaimed wages of deceased seamen, so of expences, received by him in respect of such wages of deceased seamen as afore-&c. said, the sum of five pounds per centum as, for, and in satisfaction of all expences and trouble he may be put to in the receipt, collection, or

transmission thereof.

they shall pay the same.

XXXIV. That all penalties and forfeitures given by this act shall be Application of paid and applied in manner following; (that is to say,) one third part penalties. thereof to and for the person or persons who shall inform and sue for the same, and the other two third parts thereof to the said president and governors, on account of the trustees of the port to which such ship or vessel in respect of which the forfeiture shall arise belongs; and such penalty or forfeiture shall be recovered by bill, plaint, or information in any of his Majesty's courts of record at Westminster, or such of them as do not exceed the sum of twenty pounds, upon information, on the oath of one or more witnesses, before any one or more of his Majesty's justice or justices of the peace in any part of the kingdom of Great Britain or Ireland, who shall not reside more than ten miles from the place of abode of the person or persons complained of; which justice or justices is and are hereby authorized and required to issue out his or their warrant or warrants to bring before him or them every person charged with any offence under this act, and, in case he or they shall refuse or neglect to pay such penalties or forfeitures as aforesaid, to issue his or their warrant or warrants to levy the same by distress and sale of the offender's goods, and, in case no distress can be found, to commit the offender or offenders to the common gaol of the city, town, or place within the jurisdiction of such respective justice or justices,

XXXV. That if any action shall be brought or suit be commenced Limitation of against any person or persons for any thing done in pursuance of this actions. act, or in relation to the premises or any of them, every such action or suit shall be laid or brought within two calendar months next after the grievance committed in the county or place where the fact was done, and not elsewhere; and the defendant or defendants in such action may plead the general issue, and give this act, and a tender of amends before action brought, or the special matter, in evidence at any trial to be had hereupon, and that the act or matter was done in pursuance and by the authority of this act; and if the same shall appear to have been so done, or if any such action or suit shall not be brought within the time

there to remain for the space of three calendar months, or until he or

Part III.

c. 52.

No. XXVI. before limited, and shall be brought in any other county or place than 4 & 5 W. 4, as aforesaid, or the jury shall not consider the aggrieved party entitled to more than the amends tendered, then the jury shall find for the defendant or defendants; or if the plaintiff or plaintiffs shall become nonsuit, or suffer a discontinuance of his, her, or their action or actions, or if a verdict shall pass against the plaintiff or plaintiffs, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have double costs, and shall have such remedy for recovering the same as any defendant or defendants hath or have for costs in other cases at law.

Public act.

XXXVI. That this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such by all judges, justices, and others.

SCHEDULE (A.) to which this Act refers.

A List and Account of the Crew (including the Master and Apprentices) of the Ship
whereof
and on her return to the port of
in the Dnited Kingdom, and also of those who have joined the Ship at any time
during the Voyage.

		igation, Ship-Owners, &c.	283
Amount	Monthly Duty.	•	
What Clothes or other Effects any deceased man has left.		·	
due of	ď.		
Wages due at Time of Death.	•		
W at	3	·	
When or where killed or drowned or died a natural Death.		•	
When and where received Hurt or damged.			-
harge,	Year.		
of Disch he Ship.	Month.		
nd Time leaving	Day.		
Place and Time of Discharge, or leaving the Ship. Day. Month. Year			
	Year.		
Place and Time of Entry.	Month.		
lace and of Ent	Day.		
144			·
Place of Birth.			
Men's Name.			

[No. XXVII.] 4 & 5 W. IV. c. 89.—An Act to amend the Laws relating to the Customs. [15th August 1834.]

[No. XXVIII.] 4 & 5 W. IV. c. 94.—An Act to enable His Majesty to invest trading and other Companies with the Powers necessary for the due Conduct of their Affairs, and for the Security of the Rights and Interests of their Creditors.

[15th August 1834.]

6 G. 4, c. 91.

WHEREAS by an act passed in the sixth year of his late Majesty king George the fourth, intituled An Act to repeal so much of an Act passed in the Sixth Year of His late Majesty King George the First as relates to the restraining several extravagant and unwarrantable Practices in the said Act mentioned, and for conferring additional Powers upon His Majesty with respect to the granting of Charters of Incorporation to trading and other Companies, it is amongst other things enacted, That in any charter hereafter to be granted by his Majesty, his heirs or successors, for the incorporation of any company or body of persons, it shall and may be lawful in and by such charter to declare and provide that the members of such corporation shall be individually liable in their persons and property for the debts, contracts, and engagements of such corporation, to such extent, and subject to such regulations and restrictions, as his Majesty, his heirs or successors, may deem fit and proper, and as shall be declared and limited in and by such charter, and the members of such corporation shall thereby be rendered so liable accordingly: And whereas divers companies and bodies of persons do and may from time to time associate themselves together for trading, charitable, literary, or other purposes, which associations it would be inexpedient to incorporate by royal charters, granted either according to the rules of the common law, or in pursuance of the said recited act, although it would be expedient to confer upon such associations, or some of them, some of the privileges of and incident to corporations created by royal charters, and especially the privilege of maintaining and defending suits, actions, prosecutions, or other legal proceedings, in the name or names of some one or more of the principal officers for the time being of such associations respectively: Be it therefore enacted, &c., That it shall and may be lawful for his Majesty, his heirs and successors, by letters patent to be from time to time for that purpose issued under the great seal of the united kingdom of Great Britain and Ireland, or in Scotland under the seal appointed by the articles of union to be used, and instead of the great seal thereof, to grant to any company or body of persons associated together for any trading, charitable, literary, or other purposes, and to the heirs, executors, administrators, and assigns of any such persons, although not incorporated by such letters patent, any privilege or privileges which, according to the rules of the common law, or in pursuance of the said recited act, it would be competent to his Majesty, his heirs and successors, to grant to any such company or body of persons in and by any charter of incorporation, and especially the before-mentioned privilege of maintaining and defending actions, suits, prosecutions, and other proceedings, both at law, and in equity, in the name or names of any one or more of the principal officers for the time being of any such associations respectively, which privileges shall be granted in and by such letters patent, in such manner and form, and upon such conditions for the prevention of abuses in the management of the affairs of any such associations, and for the security of the rights and interests of their creditors, and for the protection of the public at large, as his Majesty, his heirs and successors, shall by any such letters patent as aforesaid see fit from time to time to prescribe

His Majesty empowered by letters patent, to grant to trading companies not incorporated certain privileges for protection of themselves and of the public.

and impose; and any letters patent which shall be so granted and No. XXVIII. issued as aforesaid shall, to the extent of the privileges thereby granted, 4 & 5 W. 4. and subject to the conditions to be thereby imposed, be as valid and effectual in the law as if such privileges were granted and such conditions were imposed by any act passed for granting and imposing the same: Provided always, That in all cases where such letters patent Name of any shall be granted to any such company or body of persons, it shall and member may may be lawful, in all suits or proceedings in equity commenced or be joined with instituted against the principal officer or officers of such company or principal offibody of persons, to join, for the purpose of discovery, in such suits or cer in suits in proceedings, any member or members of such company as the nominal equity. defendant or defendants for or on behalf of such company or body of persons, subject to the payment by the plaintiffs of such costs as the court in which such proceedings may be had shall in that behalf order No privilege to or direct: Provided always, That nothing in this act contained shall be granted enable his Majesty to grant to any company or body of persons any until after privilege under this act until after notice in the Gazette shall have been three months' given three months that it is intended to grant such privilege or pri-notice in Gavileges.

II. And to the end that the issuing of such letters patent, and the Entry of grant name or names of the principal officer or officers for the time being of of letters pathe several associations thereby constituted, may be made known to the tent to be made public, be it enacted, That an entry of the grant of such letters patent, in the office of and of the name or names of the principal officer or officers therein de-clerk of the pasignated, or who may from time to time be appointed by virtue of the tents, and a powers for that purpose contained in such letters patent, shall be made thereof pubin a book to be kept for that purpose in the office of the clerk of the lished in the patents, and that the same shall be open for inspection at all reasonable London Gatimes, by any person requiring the same, on payment of a fee of one zette and in one shilling only; and further, that a sufficient notice or memorandum of newspaper in such letters patent, together with the name or names of such principal the neighbourofficer or officers, be advertised in the London Gazette within one calen- hood of the dar month from the date of such letters patent, and also in some one association. newspaper published or circulating in the county or place where the meetings of any such association shall be usually held; and also, that upon the death, or change from any other cause whatever, of any such principal officer or officers, notice thereof, and of the name or names of the person or persons succeeding him or them, shall in like manner be recorded in the office of the clerk of the patents, and advertised in the London Gazette and in some one newspaper as aforesaid; and the officer or officers so from time to time recorded and advertised shall, for all intents and purposes, be held and considered as the party or parties entitled to sue and to be sued on behalf of his or their respective associations, within the meaning of this act, and of any patent or patents to be from time to time granted by virtue therereof.

III. That any decree, judgment, order, or interlocutor made or pro- Decrees, judgnounced in any action, suit, or proceeding in any court of law or equity ments, &c. against any officer of any such company, body, or association named as given against aforesaid, shall have the like effect and operation upon and against the said company property, funds, and effects of such company, body, or association, and to extend to upon and against the persons and property of every and any member the property of thereof, as if such company, body, or association, and such member or such company, members thereof, had been a party or parties to such action, suit, or and to the perproceeding, and as if such decree, judgment, order, or interlocutor had son and effects been pronounced against such company, body, or association, or against of every memevery or any such member or members thereof; provided that no diligence or execution shall pass or be issued thereon without leave first granted in open court by the court in which such decree, judgment. order, or interlocutor was made or pronounced, and which motion shall be made on notice to the person or persons sought to be charged, nor after the expiration of three years next after such person or persons shall have ceased to be a member of such company, body, or association.

No. XXVIII. c. 94.

List of members' names, with their places of abode, to be

Saving privicompanies.

IV. Provided always, That the principal officer or officers for the 4 & 5 W. 4, time being of such company or body of persons to whom such letters patent shall be granted shall, in the first week of the month of June and in the first week of the month of December in each year during the continuance of such letters patent, cause a true list of the names of all the then existing members of such company or body of persons, with their respective places of abode and description, to be filed with the clerk of the patents, and that the same shall be open for inspection at all reasonable times by any person requiring the same. filed with clerk of patents, and be open for inspection.

V. Provided always, That nothing in this act contained shall auleges of existing thorize or be construed to authorize the grant to any company or body of persons of any privilege in derogation of any exclusive privileges now enjoyed by any company or corporation under any act or acts of parliament.

> [No. XXIX.] 5 & 6 W. IV. c. 13.—An Act to regulate the importation of Corn into the Isle of Man.

[3rd July 1835.]

[No. XXX.] 5 & 6 W. IV. c. 19.—An Act to amend and consolidate the Laws relating to the Merchant Seamen of the United Kingdom and for forming and maintaining a Register of all the Men engaged in that Service.

[30th July 1835.]

WHEREAS the prosperity, strength, and safety of this united kingdom and of his Majesty's dominions do principally depend on a large, constant, and ready supply of seamen, as well for carrying on the commerce as for the defence thereof; and it is therefore necessary to aid by all practicable means the increase of the number of such seamen, and to give them all due encouragement and protection, and to this end to amend and consolidate the laws relating to their regulation and government: Be it therefore enacted, &c. That after [31st July, 1835, the acta 2 & 3 Ann, c. 6; 2 G. 2, c. 36; 2 G. 3, c. 31; 31 G. 3, c. 39; 45 G. 3, c. 81; 37 G. 3, c. 73; 58 G. 3, c. 38; 4 G. 4, c. 25; 3 & 4 W. 4, c. 88, and 59 G. 3, c. 58, shall be repealed.] Provided always, that all offences which shall have been committed and all penalties and forfeitures which shall have been incurred previous to the commencement of this act, against the provisions of the said acts, shall and may be punishable and recoverable under the said acts as if the same had not been repealed.

No seaman to without a written agree-

II. That it shall not be lawful for any master of any ship or vessel be taken to sea belonging to any subject of his Majesty of this united kingdom trading to parts beyond the seas, or of any British registered ship of the burthen of eighty tons or upwards employed in any of the fisheries of the united kingdom, or in trading coastwise or otherwise, to carry to sea on any voyage, either from this kingdom or from any other place, any seaman or other person as one of his crew or complement (apprentices excepted), without first entering into an agreement in writing with every such seaman, specifying what monthly or other wages each such seaman is to be paid, the capacity in which he is to act, and the nature of the voyage in which the ship is intended to be employed, so that the seaman may have some means of judging of the probable period for which he is likely to be engaged; and the said agreement shall contain the day of the month and year in which the same shall be made, and shall be signed by the master in the first instance, and by the seamen respectively at the port or place where such seamen shall be respectively shipped; and the master shall cause the same to be, by or in the presence of the party who is to attest their respective signatures thereto, No. XXX. truly and distinctly read over to every such seaman before he shall be 4 & 5 W. 4, required to sign the same, in order that he may be enabled to understand the purport and meaning of the engagement he enters into and the terms to which he is bound.

III. That in the cases of ships as aforesaid bound to parts beyond the Regulations seas, except as herein-after provided, every such agreement shall be in respecting form the form and shall contain true entries under their respective heads of of agreements. the several particulars set forth in the schedule to this act annexed and marked (A.), so far as the same can be ascertained; and that the owners and the master of every such ship, or one of them, shall, on reporting his ship's arrival at her port of destination in the united kingdom, deposit or cause to be deposited with the collector or comptroller of the customs at such port a true copy of such agreement, attested by the signature of the master, to the intent that every person who may be interested in any such agreement may at all times have the means of knowing the terms and conditions thereof; and that in the cases of ships employed in fishing on the coasts of the united kingdom, and of ships regularly trading from one part of the united kingdom to another, and of ships regularly trading or making regular voyages to any of the islands of Jersey, Guernsey, Alderney, Sark, and Man, or to any port on the continent of Europe between the river Elbe inclusive and Brest, the agreement to be entered into as aforesaid shall be in the form and shall contain true entries under their respective heads of the particulars set forth in the schedule to this act annexed and marked (B), so far as the same can be ascertained; and that the owner or one of the owners of every such ship employed in fishing or in trading in any of the cases last mentioned shall to the like intent, within ten days next after the expiration of every six months ending on the thirtieth day of June and the thirty-first day of December in each year, deposit with the collector or comptroller of the customs of the port to which the ship shall belong a true copy of every agreement which shall have been entered into with any person composing part of the crew thereof within the preceding six months, attested by the signature of such owner; and all copies of agreements so required by this act to be deposited as aforesaid shall, when the same shall have been so deposited, and shall be required to be produced in evidence on the part of any seaman, be received and taken as legal proof of the contents of the agreement.

IV. That if any master of any such ship as aforesaid shall carry out Penalty for to sea any seaman (apprentices excepted) without having first entered default. into such agreement as is hereby required, he shall for every such offence forfeit and pay the sum of ten pounds for or in respect of each and every such seaman he shall so carry out contrary to this act; and if any master shall neglect to cause the agreement to be distinctly read over to each such seaman, as by this act he is enjoined, he shall for every such neglect forfeit and pay the sum of five pounds; and if any master shall neglect to deposit with the collector or comptroller of the customs a copy of the agreement hereby required to be made and deposited as aforesaid, or shall wilfully deposit a false copy of any such agreement, he shall for every such neglect or offence forfeit and pay the

sum of fifty pounds.

V. That no seaman, by entering into or signing such agreement as Seamen not to aforesaid, shall forfeit his lien upon the ship, nor be deprived of any be deprived of remedy for the recovery of his wages which seamen are now lawfully legal remedies. entitled to against either the ship, the master or the owners thereof; nor shall any agreement made contrary to or inconsistent with the pro- No agreement visions of this act, or any clause whereby a seaman shall consent to contrary to the forego the right which the maritime law gives him to wages in the case act to be valid. of freight earned by ships subsequently lost, or containing any words to that effect, be valid or binding on any seaman signing the same; and Seamen not that in cases in which it may be necessary that the agreement should bound to probe produced to sustain a claim on the part of a seaman no obligation duce agree-

Part III.

c. 19.

Seamen refusing to join or to proceed absenting themselves therefrom, may be committed to gaol.

No. XXX. shall lie upon the seaman to produce the same, nor shall any seaman 4 & 5 W. 4, fail in any suit or proceeding for the recovery of his wages for want of the production of any such agreement, or of any deposited copy thereof as aforesaid, or for the want of any notice to produce the same; any law or usage to the contrary notwithstanding.

VI. That in case a seaman shall at any time, after having signed an agreement as herein before mentioned, neglect or refuse to join the ship on board of which he shall have engaged to serve, or shall refuse to in the ship, or proceed to sea in her, or shall absent himself therefrom without leave, it shall be lawful for any justice of the peace in any of his Majesty's dominions at home or abroad near to the place where such ship shall happen to be, upon complaint of the fact made upon oath by the master, mate, or owner thereof, and such justice is hereby required, by his warrant to cause such seaman to be apprehended and brought before him; and in case such seaman shall not give a reason to the satisfaction of such justice for his neglect, refusal, or absence, as the case may be, upon due proof of such neglect, refusal, or absence it shall be lawful for any such justice to commit such seaman to the house of correction, there to be kept to hard labour for a period not exceeding thirty days: Provided always, That in case such seaman, on being apprehended and brought before the said justice, shall consent to join the ship and proceed on the voyage for which he shall have agreed, it shall be lawful for the said justice, at the request of the master, instead of committing such seaman, to cause him to be conveyed on board the said ship or to be delivered to the master for the purpose of proceeding on the voyage, and also to award to the master such costs incurred in the apprehension of the seaman as to such justice shall seem reasonable, not exceeding in any case the sum of forty shillings, which shall be chargeable against and may be abated from the wages to grow due to such seaman.

Forfeiture for temporary absence from duty.

VII. That if any seaman, after having signed such agreement as aforesaid, or after the ship on board which he shall have agreed to serve shall have left her first port of clearance, and before the period for which he shall have agreed to serve shall be completed, shall wilfully and without leave absent himself from the ship, or otherwise from his duty, he shall (in all cases not of absolute desertion, or not treated as such by the master,) forfeit out of his wages to the master or owner of such ship the amount of two days' pay for every twenty-four hours of such absence, and in a like proportion for any less period of time, or, at the option of the said master, the amount of such expences as shall have been necessarily incurred in hiring a substitute to perform his work; and in case any seaman while he shall belong to the ship shall without sufficient cause neglect to perform such his duty as shall be reasonably required of him by the master or other person in command of the ship, he shall be subject to a like forfeiture in respect of every such offence, and of every twenty-four hours' continuance thereof; and in case any such seaman, after having signed such agreement, or after the ship's arrival at her port of delivery, and before her cargo shall be discharged, shall quit the ship without a previous discharge or leave from the master thereof, he shall forfeit to the master or owner one month's pay out of his wages: Provided always, That no such forfeitures shall be incurred unless the fact of the seaman's temporary absence, neglect of duty, or quitting the ship shall be duly entered or recorded in the ship's log book, which entry shall specify truly the hour of the day at which the same shall have occurred, and the period during which the seaman was absent or neglected his duty, the truth of which entry it shall be incumbent on the owner or master in all cases of dispute to substantiate by the evidence of the mate or some other credible witness.

How amount of forfeiture is to be a certained when

VIII. That in all cases where the seaman shall have contracted for wages by the voyage or by the run, and not by the month or other stated period of time, the amount of forfeitures to be incurred by seamen under this act shall be ascertained in manner following; (that is to say,)

if the whole time spent in the voyage agreed upon shall exceed one No. XXX. calendar month, the forfeiture of one month's pay, expressed in this act, 5 & 6 W. 4, shall be accounted and taken to be a forfeiture of a sum of money bearing the same proportion to the whole wages as a calendar month shall bear to the whole time spent in the voyage, and in like manner a seamen conforfeiture of two days' pay or less shall be accounted and taken to be a tract for the forfeiture of a sum bearing the same proportion to the whole wages as voyage. the same period of time shall bear to the whole time spent in the voyage; and if the whole time spent in the voyage shall not exceed one calendar month, the forfeiture of one month's pay shall be accounted and taken to be a forfeiture of the whole wages contracted for; and if such time shall not exceed two days, the forfeiture of two days' pay shall be accounted and taken to be a forfeiture of the whole wages contracted for; and the master is hereby authorized to abate the amount of all forfeitures herein-before enacted out of the wages of any seaman incurring the same.

IX. That every seaman who shall absolutely desert the ship to which Forfeiture for he shall belong shall forfeit to the owner or master thereof all his desertion. clothes and effects which he may leave on board, and all wages and emoluments to which he might otherwise be entitled, provided the circumstances attending such desertion be entered in the log book at the time and certified by the signature of the master and mate or other credible witness; and that an absence of a seaman from the ship for any time within the space of twenty-four hours immediately preceding the sailing of the ship without permission from the master thereof, or for any period however short, under circumstances plainly showing that it was his intention not to return thereto, shall be deemed an absolute desertion; and in case any such desertion shall take place in parts Increased beyond the seas, and the master of the ship shall be under the necessity wages paid in of engaging any seaman as a substitute for the deserter at a higher rate consequence of of wages than that stipulated in the agreement to be paid to the seaman desertion recodeserting, the owner or master of the ship shall be entitled to recover verable from from the deserter by summary proceeding, in the same manner as the deserter. wages are by this act made recoverable, any excess of wages which such owner or master shall pay to such substitute beyond the amount which would have been payable to the deserter in case he had duly performed

his service pursuant to his agreement. X. That if any person shall, either on shipboard or on shore, harbour Penalty for or secrete a seaman who shall have signed an agreement to proceed on harbouring a voyage to parts beyond the seas, and shall have deserted or absented deserters. himself without leave from his ship, knowing or having reason to believe him to be a deserter or to be absent without leave, every person so offending shall for every such seaman so harboured or secreted forfeit and pay the sum of ten pounds; and that no debt exceeding in No debt examount five shillings, incurred by any seaman after he shall have ceeding 5s. signed any such agreement as aforesaid, shall be recoverable until the recoverable voyage agreed for shall have been concluded; nor shall it be lawful for from a seamen any keeper of a public house or of a lodging house for seamen to with- till voyage is hold or detain any chest, bed or bedding, clothes, tools, or other effects ended. of any seaman, for any pretended debt alleged to have been contracted Seamen's efby any such seaman; and in case any such chest, bed, bedding, clothes, fects not to be tools, or other effects as aforesaid shall be withheld or detained contrary detained by to this act, it shall be lawful for any justice of the peace in any part of keepers of his Majesty's dominions, upon complaint upon oath to be made by any lodging-houses such seaman or on his behalf, to inquire into the matter, and if he shall of debt. see right by warrant under his hand and seal to cause any such property or effects so withheld or detained contrary to this act to be seized and delivered over to the seaman.

XI. That the master or owner of every ship shall and he is hereby re- The period quired to pay to every seaman entering into such contract as aforesaid within which his wages, if the same shall be demanded within the respective periods wages are to be following; (that is to say,) if the ship shall be employed in trading paid.

No. XXX. 5 & 6 W. 4, c. 19.

coastwise, the wages shall be paid within two days after the termination of the agreement, or at the time when any such seaman shall be discharged, whichever shall first happen; and if the ship shall be employed in trading otherwise than coastwise, then the wages shall be paid at the latest within three days after the cargo shall have been delivered, or within ten days after the seaman's discharge, whichever shall first happen; in either of which last-mentioned cases of payment being delayed, the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the estimated balance due to him; and in case any master or owner shall neglect or refuse to make payment in manner aforesaid, he shall for every such neglect or refusal forfeit and pay to the seaman the amount of two days' pay for each day not exceeding ten days during which payment shall without sufficient cause be delayed beyond the period at which such wages or part wages are hereby required to be paid as aforsaid; for the recovery of which forfeiture the seaman shall have the same remedies as he is by law entitled to for the recovery of his wages: Provided always, That nothing in this clause contained shall extend to the cases of ships employed in the southern whale fishery, or on voyages for which seamen by the terms of their agreement are compensated by shares in the profits of the adventure.

XII. And be it enacted and declared, That every such payment of Such payment of wages to be wages to a seaman shall be valid and effectual in law notwithstanding any bill of sale or assignment which may have been made by any such deemed valid notwithstandseaman of such wages, or of any attachment or incumbrance thereon; ing bill of sale, and that no assignment or sale of wages made prior to the earning &c. thereof, nor any power of attorney expressed to be irrevocable for the receipt of any such wages, shall be valid or binding upon the party

making the same.

Masters to give seamen their certificates on their discharge.

Penalty for default.

For obtaining of seamen in certain cases.

XIII. That upon the discharge of a seaman from the ship in which he shall have served he shall be entitled to receive from the master a certificate of his service and discharge, specifying the period of service and the time and place of the discharge of such seaman, which certificate shall be signed by the master; and if any master shall refuse to give such certificate to any such seaman without having reasonable cause for his refusal, he shall for every such offence forfeit and pay to him the sum of five pounds.

XIV. That if after a seaman shall have been discharged from any immediate pay- ship or vessel three days he shall be desirous of proceeding to sea on ment of wages another voyage, and in order thereto shall require immediate payment of the wages due to him, it shall be lawful for any justice of the peace in any part of his Majesty's dominions, on application from such seaman, and on satisfactory proof that he would be prevented from employment by delay, to summon the master or owner of such ship or vessel before him, and to require cause to be shown why immediate payment of such wages should not be made; and if it shall appear to the satisfaction of such justice that there is no reasonable cause for delay be shall order payment to be made forthwith, and in default of compliance with such order such master or owner shall forfeit and pay the sum of five pounds.

Summary vering wages not exceeding 201.

XV. And whereas seamen, in cases of dispute, may be exposed to mode of reco- great inconvenience, expence, and delay in obtaining payment of their wages; for remedy thereof be it enacted, That in all cases of wages not exceeding twenty pounds which shall be due and payable to a seaman for his service in any ship as aforesaid, it shall be lawful for any justice of the peace in any part of his Majesty's dominions residing near to the place where the ship shall have ended her voyage, cleared at the custom house, or discharged her cargo, or near to the place where the master or owner upon whom respectively the claim is made shall be or reside, upon complaint on oath to be made to such justice by any such seaman or on his behalf, to summon such master or owner to appear before him to answer such complaint, and upon the appearance of such master or

owner, or in default thereof, on due proof of his having been so sum- No. XXX. moned, such justice is hereby empowered to examine upon the oath of 5 & 6 W. 4, the parties and their respective witnesses (if there be any) touching the complaint and the amount of wages due, and to make such order for payment thereof as shall to such justice appear reasonable and just; and in case such order shall not be obeyed within two days next after the making thereof it shall be lawful for such justice to issue his warrant to levy the amount of the wages awarded to be due, by distress and sale of the goods and chattels of the party on whom such order for payment shall be made, rendering to such party the overplus (if any shall remain of the produce of the sale) after deducting thereout all the charges and expences incurred by the seaman in the making and hearing of the complaint, as well as those incurred by the distress and levy and in the enforcement of the justice's order; and in case sufficient distress cannot be found it shall be lawful for the said justice to cause the amount of the said wages and expences to be levied on the ship in respect of the service on board which the wages are claimed, or the tackle and apparel thereof; and if such ship shall not be within the jurisdiction of such justice, then he is hereby empowered to cause the party upon whom the order for payment shall be made to be apprehended and committed to the common gaol of the county, there to remain without bail until payment shall be made of the amount of the wages so awarded, and of all costs and expences attending the recovery thereof; and the award and decision of such justice as aforesaid shall be final and conclusive as well on every such seaman as on the owner and master of the ship.

XVI. That if any suit for the recovery of a seaman's wages shall be In what case instituted against the ship, or the master or owner thereof, either in the costs of suit for high court of admiralty or in any vice-admiralty court, or against the recovery of master or owner in any court of record in his Majesty's dominions, and wages not to it shall appear to the judge in the course of such suit that the plaintiff be allowed. might have had as effectual a remedy for the recovery of his wages by complaint to a justice of the peace as herein-before provided, then and in every such case it shall be lawful for such judge and he is hereby required to certify to that effect, and thereupon no costs of suit shall be

awarded to the plaintiff.

XVII. That whenever any ship whatever belonging to any subject of When ship is the united kingdom, except in cases of wreck or condemnation, shall be sold at a fosold at any port out of his Majesty's dominions, the master in all such reign port, the cases (unless the crew in the presence of the British consul or vice- crew to be sent consul, or in case of there not being any such consul or vice-consul, home at the then in the presence of one or more British resident merchants at such master or port, shall signify their consent in writing to be there discharged,) shall owners. and he is hereby required, besides paying them the wages to which they shall be entitled under the agreement, either to provide them with adequate employment on board some other British vessel homeward bound, or to furnish the means of sending them back to the port in his Majesty's dominions at which they were originally shipped, or to some port in the united kingdom, as shall be agreed upon, by providing them with a passage home, or depositing with the consul or vice-consul such a sum of money as shall be by him deemed reasonably sufficient to defray the expences of their subsistence and passage; and if the master shall refuse or neglect to do so, such expences when defrayed shall be a charge upon the owner whose ship shall be so sold, except in cases of barratry, wreck, or condemnation, and may be recovered against such owner as so much money paid and expended on his account, together with full costs, at the suit of the consul or other person defraying such expences, or of his Majesty's attorney general on behalf of his Majesty, in case the same shall have been allowed to the consul out of the public monies.

XVIII. And whereas it is necessary that due provision should be A supply of made for the preservation of the health and lives of the seamen em- medicines to be No. XXX. c. 19.

and seamen hurt in the service of the ship to be provided with advice, &c. gratis.

Establishment of register office for seamen.

ployed in the merchant service; be it further euacted, That every ship 5 & 6 W. 4, sailing from the united kingdom to any place out of the same shall have and keep constantly on board the same a sufficient supply of medicines suitable to accidents and diseases arising on sea voyages, which shall be kept on board, renewed from time to time as shall be found requisite; and in case any default shall be made in providing or keeping supplied such medicines as aforesaid, or in case any of the seamen shall receive any hurt or injury in the service of the ship, the expence of providing the necessary surgical and medical advice, and attendance and medicines which the seaman shall stand in need of until he shall have been cured or shall have been brought back to some port of the united kingdom, shall be borne and defrayed by the owner and master of the ship, or one of them, without any deduction whatever on that account from the seaman's wages.

> XIX. And whereas it is expedient that a register should be formed and maintained of all the mariners and seafaring men of the united kingdom, be it therefore enacted, That as soon as conveniently may be after the passing of this act there shall be established in the port of London an office, to be called "The General Register Office of Merchant Seamen," which shall consist of a registrar and such assistants and clerks with such salaries and allowances as shall be fixed and regulated from time to time by the lord high admiral or the commissioners for executing the office of lord high admiral of the united kingdom for the time being, and that such office shall be kept at the custom house of the said port, and daily attendance shall be given thereat during the usual hours of business there; and the said registrar, his assistants and clerks, shall be under the control and directions of the said lord high admiral or the commissioners for executing the office aforesaid for the time being.

Letters to and from registrar postage.

XX. That for the more readily carrying this act into execution all letters and packets addressed to and sent by the said registrar upon any to be free from business relating to the register office created by this act shall be free from the duty of postage; and that all letters and packets which shall be forwarded by the said registrar in the execution of his duty as such registrar shall be under a cover, with the words, "Pursuant to Act of Parliament of the Fifth Year of King William the Fourth," printed thereon, and the said registrar shall sign his name under such words, and every such cover shall be sealed with the seal of his office; and if the said registrar or any other person shall send or cause to be sent under any such cover any paper, letter, or writing, or any inclosure, other than what shall relate to the public business of the said office, every person shall for every such offence forfeit and pay the sum of one hundred pounds.

Masters of ships trading abroad to deliver lists of their return.

XXI. And whereas by an act of the last session of parliament, intituled An Act to amend an Act of the Twentieth Year of His Majesty King George the Second, for the Relief and Support of sick, maimed, and disabled Seamen, and the Widows and Children of such as shall be killed, their crews on slain, or drowned in the Merchant Service, and for other Purposes, a certain book by way of muster roll is for the purposes of the said act 4 & 5 W. 4, required to be kept on board merchant ships, which book is to contain such entries and statement of account as by the said act is required: And whereas it is expedient for the better effectuating the objects of this act that a due return should be made to the said registrar of merchant seamen of many of the particulars in the said act specified; be it therefore further enacted, That the master of every ship belonging to any subject of his Majesty, and bound to parts beyond the seas, except in the cases next herein-after provided, shall not only keep the book so required by the said recited act, but shall, on reporting his ship on her arrival at her port of destination in the united kingdom, deliver or cause to be delivered to the collector or comptroller of the customs at such port an account, signed by himself, of all the seamen and others (including apprentices) who shall have belonged to the ship at any time

during her absence from the united kingdom, which account shall con- No. XXX. tain a true and correct return under their respective heads of the 5 & 6 W. 4, several particulars expressed in the form set forth in the schedule an-

nexed to this act, and marked (C.).

XXII. That within twenty-one days after the thirtieth day of June Masters of and the thirty first day of December in each year, the owner or one of ships in the the owners of every ship as aforesaid employed in fishing on the coasts home trade of the united kingdom, or in regularly trading from one part of the to return united kingdom to another, and of every ship regularly trading or similar lists. making regular voyages to any of the islands of Jersey, Guernsey, Alderney, Sark, and Man, or to any port on the continent of Europe between the river Elbe inclusive and Brest, shall deposit or cause to be deposited with the collector or comptroller of the customs of the port to which the ship shall belong, or with the said registrar in London, an account, signed by such owner, or by the master, of the voyages in which any such ship shall have been engaged during the preceding half year ending on the respective days above mentioned, and setting forth the Christian and surnames of the several persons (including the master and apprentices) who shall have belonged to the ship at any time during such periods respectively, which account shall be in the form and shall contain a true and correct return under their respective heads of the several particulars expressed in the schedule marked (D.) aud to this act annexed.

XXIII. That in case any ship as aforesaid shall be lost or sold while Return to be absent from the united kingdom, then an account containing a similar made in case return as required in the several and respective cases before mentioned, of ship lost or which shall be made out up to the period of such loss or sale, shall by the sold abroad. persons who shall at that time have been respectively owner and master thereof, or by one of them, be delivered or transmitted to the said registrar in the port of London so soon as he shall be enabled to make such return after the loss, and within twelve calendar months at farthest after the sale of the ship.

XXIV. That the said several accounts and returns by this act re- Lists to be cerquired to be deposited with or delivered to the collector or comptroller tified, and as aforesaid shall by such officers of the customs be transmitted from transmitted to time to time to the said registrar for the purposes of this act; and every the registrar. such owner or master of any ship as aforesaid who shall refuse or wil- Penalty on the fully neglect to deliver or cause to be delivered any such list or account master for as by this act is required, shall for every such refusal or neglect forfeit neglect.

and pay the sum of twenty-five pounds.

XXV. And in order that due care may be taken of the effects of As to the dis-British seamen dying in foreign parts, and that a proper disposition posal of the may be made thereof, be it further enacted, That whenever a British effects of sea. seaman being abroad shall die elsewhere than on board a British ship, men dying leaving any money or effects within the limits of any British consulate, abroad. it shall be lawful for his Majesty's consul there and he is hereby required to claim and take charge of all such money and effects, and to dispose of the said effects for the benefit of the next of kin of the deceased or other person who may be by law entitled to the same; and in case no claim shall be made to the same within three calendar months after the death of such seaman, the said consul shall, after abating the amount of any expences which shall have been incurred in getting in the assets of the deceased, remit the balance of all such monies which either have already arisen or shall hereafter arise by the means aforesaid to the president and governors of the corporation "For the Relief and Support of sick, maimed, and disabled Seamen, and of the Widow and Children of such as shall be killed, slain, or drowned, in the Merchant Service," to be by such president and governors paid over and disposed of in the same manner and under the same regulations as are provided by the said recited act of the last session of parliament with respect to the wages of seamen dying on board merchant ships; and in case any seaman so dying as last mentioned shall leave

No. XXX. on board the ship to which he shall belong any monies, clothes, or 5 & 6 W. 4, other effects, and the same shall not be claimed within one month after the ship's return to the united kingdom by the executor or administrator of the deceased, then the master of the said ship shall and he is hereby required to deposit the same or the proceeds arising therefrom with the president and governors aforesaid, to be by them disposed of in the same manner as is provided by the said act with respect to the wages of deceased seamen.

Parish boys

XXVI. And whereas the giving due encouragement to such of the may be put out youth of the united kingdom as shall voluntarily betake themselves to apprentices in the sea service, and obliging others to do so who by reason of their own the sea service. or their parent's poverty are destitute of the means of obtaining subsistence and employment, will not only greatly tend to the increase of able and experienced seamen, as well for the service of the royal navy as for carrying on the commerce of his Majesty's subjects, but will likewise provide them with employment, and thus materially diminish the burthen of expence cast upon parishes by their maintenance; be it therefore enacted, That it shall be lawful for the overseers of the poor or other persons having the authority of overseers of the poor of any parish, township, or place in the united kingdom, or in whom the duty of overseers or guardians of the poor shall or may be vested, and they are hereby empowered, to bind by indenture and put out any boy having attained the age of thirteen years, and of sufficient health and strength, who or whose parent or parents is or are chargeable to or maintained by any such parish or township, or who shall beg for alms therein, with his consent but not otherwise, an apprentice in the sea service to any of his Majesty's subjects being the master or owner of any ship registered in any port of the united kingdom, for so long time and until such boys shall respectively attain the age of twenty-one years, which binding shall be as effectual in the law to all intents and purposes as if such boy had been bound by virtue of any statute now in force respecting the binding of parish apprentices, or as if such boy were of full age and had bound himself an apprentice, and notwithstanding the residence of the master or owner to whom he may be bound shall be more than forty miles distant from such parish or place: Provided always, That every such binding shall be made in the presence of two justices of the peace acting for the county, riding, division, city, borough, or place within which such parish or township shall be situate, which justices shall execute the indenture in testimony of their having been satisfied that such boy hath attained the age and is of sufficient health and strength as required by this act; and to the end that the period when the service under such indenture shall expire may the more certainly appear, the age of every such boy shall be inserted in his indenture, the same being truly taken from a copy of the entry of his baptism in the register book of the parish in which he was born (where the same can be obtained), which copy shall be given and attested by the officiating minister of such parish without fee or reward; and in cases where no such entry of baptism can be found the justices aforesaid shall inform themselves as fully as they can of such boy's age, and from such information shall insert the same in his said indenture, and the age of every such boy so inserted therein shall (in relation to the continuance of his service) be taken to be his true age without any further proof thereof.

Parish apprentices may be

XXVII. That it shall be lawful for any master or person to whom any poor parish apprentice shall have been or shall be hereafter bound to turned over to a service on shore according to the statutes already in force relating to the sea service. such apprentices, or for the executors or administrators, or, there being none such, for the widow of any such deceased master, with the concurrence of two or more justices of the peace residing in or near to the place where such poor boy shall have been bound apprentice, to assign and turn over such poor boy, with his consent but not otherwise, ap prentice to any master or owner of any ship not having her complement of apprentices as herein-after required, to be employed by such master No. XXX. or owner in the sea service during the period then remaining unexpired 5 & 6 W. 4,

of his apprenticeship.

XXVIII. That in the event of the death of the master of any such poor or parish apprentice to the sea service, it shall be lawful for the Indentures widow or the executor or administrator of such deceased master to may be asassign the indenture of any such apprentice for the residue of the term signed on the then unexpired therein to any master or owner of any such ship not death of the having the complement of apprentices as herein-after required; all which master. assignments, if executed within the limits of the port of London, shall be attested by the said registrar or one of his assistants or clerks, and if at any other port shall be attested by the collector or comptroller of the customs of such port.

XXIX. That such overseers or other persons as aforesaid shall cause Parish officers the indentures of apprenticeship to be prepared and transmitted in du- to prepare inplicate, if the master or owner of the ship to whom such apprentice is dentures. to be bound shall be or reside within the limits of the port of London, to the said registrar, and if at any other port to the collector or comptroller of the customs at such port; and the said overseers or other per- Constable to sons as aforesaid shall cause each such poor boy to be conducted and convey the conveyed to such port or place by the constable and at the expence of apprentice. the parish or township sending him thither, and shall also, upon the execution by the master of the counterpart of the indentures, cause to be paid down to the master the sum of five pounds, to be expended in providing such boy with necessary sea clothing and bedding; which sum, as well as the expences to be incurred in the conveyance of the boy as aforesaid, shall, when paid, be allowed to them in their accounts of monies expended in relation to the poor.

XXX. That the counterparts of all such indentures shall, if the mas- How counterter shall be or reside within the limits of the port of London, be execu-parts of indented in the presence of and attested by the said registrar or one of his tures to be assistants or clerks, and if at any other port by the collector or comp_attested. troller of the customs at such port, and also in both cases by the constable or other officer who shall convey such apprentices thither, and such indentures shall bear date respectively on the days on which they are executed; and the constable on his return shall deliver such counterparts to the overseers or other persons as aforesaid, to be by them re-

gistered and preserved.

XXXI. That the master of every ship belonging to any subject of the Every ship to united kingdom, and of the burthen of eighty tons and upwards, shall have apprenhave on board thereof, at the time of clearing out from any port of the tices according united kingdom, one apprentice or more, in the following proportions to her tonnage. to the number of tons of his ship's admeasurement, according to the certificate of registry; that is to say, every ship of eighty tons and under two hundred tons shall have one apprentice at the least, every ship of two hundred tons and under four hundred tons shall have two apprentices at the least, every ship of four hundred tons and under five hundred tons shall have three apprentices at the least, every ship of five hundred tons and under seven hundred tons shall have four apprentices at the least, and every ship of seven hundred tons and upwards shall have five apprentices at the least, all of whom at the period of their being bound respectively shall have been under seventeen years of age, and shall have been duly bound for the term of four years at the least; and if any such master shall neglect to have on board his ship the Penalty for denumber of apprentices as hereby required he shall for every such ficiency of apoffence forfeit and pay the sum of ten pounds in respect of each ap- prentices. prentice so deficient.

XXXII. That no apprentice bound or assigned pursuant to this act, Apprentices nor any master or owner in respect or any such apprentice, shall be exempt from liable to the payment of any contribution towards the support of any contributions for hospitals. hospital or institution.

XXXIII. That the said registrar in London and the collector and Indentures and

c. 19. be registered.

No. XXX. comptroller of the customs at each other port shall, in a book to be kept 5 & 6 W. 4, for that purpose, cause to be entered from time to time all such indentures and assignments of parish apprentices as aforesaid, specifying therein the dates thereof, the names and ages of the apprentices, the assignments to parishes or places from whence sent, the names and residences of the masters to whom bound or assigned, and the names, ports, and burthen of the respective ships to which such masters belong, and shall make and subscribe on each indenture or assignment respectively an indorsement purporting that the same hath been duly registered pursuant to this act: and every such collector and comptroller shall also at the end of each quarter of the year transmit a list of the indentures and assignments so registered by him within the preceding quarter, containing all the particulars aforesaid, to the said registrar, for the purposes of this

Indentures of apprentices to be registered.

XXXIV. That in every case of a person voluntarily binding himself apprentice to the sea service the indentures to be executed on such occasions shall be registered in a book to be kept for that purpose by the said registrar in London and by the collector and comptroller of the customs at each other port at which the indenture shall be executed, in which book shall be expressed the dates of the several indentures, the names and ages of the apprentices, the names and residence of their masters, and (if known) the names, port, and burthen of the several ships on board which they are respectively to serve; and such registrar and collector or comptroller respectively shall indorse and subscribe upon each indenture a certificate purporting that the same hath been duly registered pursuant to this act, and the said collector and comptroller shall also at the end of each quarter of the year transmit a list of the indentures so registered by them within the preceding quarter, containing all the particulars aforesaid, to the said registrar, for the purposes of this act; and that it shall be lawful for the master, or in case of his death his executor or administrator, with the consent of the apprentice if of the age of seventeen years or upwards, and if under that age with the consent of his parent or guardian, to assign or transfer the indenture of any such apprentice to any other person, who may be the master or owner of any registered ship; and all such voluntary apprentices may, during the term for which they shall be bound, be employed in any ship of which the master of any such apprentice Assignments to may be the master or owner: Provided always, That every such assignment shall be registered and indorsed by the said registrar, or by the collector or comptroller of the customs at the port where the master shall be resident, or to which his ship shall belong, in which latter case the said collector or comptroller shall notify the same to the said registrar as is herein-before provided with regard to the indenture of such apprentice.

be registered.

Agreements and indentures of apprentice exempt from stamp duty.

Penalty on masters neglecting to register indensuffering apprentices to quit their service.

Justices to determine complaints.

· XXXV. That all agreements with the crew of a ship made in pursuance of and in conformity with this act, and all indentures of parish and voluntary apprentices to the sea service, and all counterparts and assignments of such indentures to be respectively executed after the passing of this act, shall be wholly exempt from stamp duty.

XXXVI. That if any master to whom any apprentice mentioned in this act shall be bound or assigned shall neglect to cause the indenture or the assignment thereof (as the case may be) to be registered as required by this act, or shall, after the ship shall have cleared outwards tures; and for on the voyage upon which such ship may be bound, suffer his apprentice to quit his service (not entering into that of his Majesty), except in case of death, desertion, sickness, or other unavoidable cause, to be certified in the log book of the ship, every such master shall for every such offence forfeit and pay the sum of ten pounds.

> XXXVII. That any two or more justices of the peace residing at or near to any port at which any ship as aforesaid, having on board thereof any sea apprentice, shall at any time arrive, shall have full power and authority to inquire into and examine, hear and determine, all claims of

apprentices upon their masters under their indentures, and all com- No. XXX. plaints of hard or ill usage exercised by their respective masters towards 5 & 6 W. 4, any such their apprentices, or of misbehaviour on the part of any such apprentice, and to make such orders therein as they are empowered by

law to do in other cases between masters and apprentices.

XXXVIII. And whereas by an act passed in the ninth year of the Common asreign of his late Majesty king George the fourth, for consolidating and saults may be amending the statutes in England relative to offences against the per-summarily son, a summary jurisdiction is provided for the punishment of persons punished by guilty of common assaults and batteries: And whereas it is expedient two justices. that the provisions of the said act should be extended to similar offences committed on board merchant ships as herein-after provided; be it therefore further enacted, That in the case of any assault or battery which shall after the commencement of this act be committed on board any merchant ship belonging to any subject of the united kingdom in any place at sea, or out of his Majesty's dominions, it shall be lawful for any two justices of the peace in any part of his Majesty's dominions, upon complaint of the party aggrieved, to hear and determine any such complaint, and to proceed and make such adjudication thereon as by the said act any two justices are empowered to do, subject however to such provisoes and limitations as are contained in the said act with respect to the cases of assault and battery therein mentioned; and the fine or forfeiture to be imposed in any such case shall be payable to the merchant seaman's hospital or institution at or nearest to the port or place where such adjudication shall be made.

XXXIX. That no parish or voluntary apprentice to the sea service Masters entishall be at liberty to enter into the naval service of his Majesty during tled to receive the period of his apprenticeship without the consent of his master; but the wages of if nevertheless he shall voluntarily enter on board any of his Majesty's apprentices enships of war, and shall be allowed by his master to continue therein, navy. such master, in case he shall give notice to the secretary of the admiralty of his consent to his apprentice remaining in his Majesty's service during the residue of the term of his apprenticeship, shall, upon the production of his indenture, be entitled, at the time of paying off the ship, to receive to his own use any balance of wages that may be then due and payable to any such apprentice up to the period of the expira-

tion of his indenture.

XL. And whereas great mischiefs have arisen from masters of mer- Forcing on chant ships leaving seamen in foreign parts, who have been thus shore or leavreduced to distress, and thereby tempted to become pirates, or other- ing behind any wise misconduct themselves, and it is expedient to amend and enlarge person belongthe law in this behalf; be it therefore further enacted, That if any ing to the crew master of a ship belonging to any subject of the united kingdom shall deemed a misforce on shore and leave behind, or shall otherwise wilfully and wrongfully leave behind on shore or at sea, in any place in or out of his Majesty's dominions, any person belonging to his crew, before the return to or arrival of such ship in the united kingdom, or before the completion of the voyage or voyages for which such person shall have been engaged, whether such person shall have formed part of the original crew or not, every person so offending shall be deemed guilty of a misdemeanor, and shall suffer such punishment by fine or imprisonment or both as to the court before which he shall be convicted shall seem meet; and the said offence may be prosecuted by information at the suit of the Jurisdiction of attorney-general on behalf of his Majesty, or by indictment or other pro- courts for ceeding in any court having criminal jurisdiction in his Majesty's domi- trying such nions at home or abroad, where such master or other person as afore- misdemeanors. said shall happen to be, although the place where the offence may be therein averred to have been committed (which averment is hereby required to be substantially according to the fact) shall appear to be out of the ordinary local jurisdiction of such court; and such court is hereby authorized to issue a commission or commissions for the examination of any witnesses who may be absent or out of the jurisdiction of the

c. 19.

No. XXX. court; and at the trial the depositions taken under such commission or 5 & 6 W. 4, commissions, if such witnesses shall be then absent, shall be received in evidence.

abroad, withfunctionaries.

XLI. That no such master shall discharge any individual person of Seamen not to his crew, whether British subject or foreigner, at any of his Majesty's be discharged colonies or plantations, without the previous sanction in writing of the governor, lieutenant governor, secretary, or other officer appointed in out sanction of that behalf by the government there, or in the absence of all such authoone of certain rities at or near to the port or place at which the ship shall be then lying, then of the chief officer of customs of such colony or plantation resident at or near to such port or place; nor shall he discharge any such person at any other place abroad without the like previous sanction in writing of his Majesty's minister, consul, or vice-consul there, or in the absence of any such functionary, then of two respectable merchants resident there; all which said functionaries respectively are hereby authorized and required, and all which said merchants are hereby authorized, in a summary way to inquire into the grounds of any such proposed discharge by examination on oath, and thereupon to grant or refuse such sanction according to their discretion, having regard to the objects of this act.

Nor to be left desertion, or disappearance, without a similar authority.

XLII. That no such master shall be at liberty to leave behind at any abroad on the place abroad, either on shore or at sea, any person of his crew as plea of incapa- aforesaid, on the plea of such person not being in a condition to proceed city to proceed, on the voyage, or having deserted from the ship, or otherwise disappeared, unless upon a previous certificate in writing of one of such functionaries or merchants as aforesaid, if there be any such at or within a reasonable distance from the place where the ship shall then be, if there be time to procure the same, certifying that such person is not in such condition, or has deserted or disappeared, and cannot be brought back; and all such functionaries as aforesaid are hereby authorized and required, on the application of any such master, to inquire by examination on oath into the circumstances, and to give or refuse such certificate according to the result of such examination.

If any of the crew are left behind, the proof of sanction or authority shall be upon the master.

XLIII. That if any such master shall leave behind any one of his crew as aforesaid contrary to this act, in any indictment or proceeding the proof of his having obtained such sanction or certificate as aforesaid shall be upon him, it being the intention hereof that, except in the case of entering into his Majesty's naval service, no person of the crew shall be discharged, either with or without his consent, in any place abroad where such functionary can be found, unless he shall have given such sanction thereto.

Seamen when allowed to be be paid their wages.

XLIV. That every such master who shall leave any person of his crew as aforesaid on shore at any place abroad, under a certificate of his not left behind, to being in a condition to proceed on the voyage, shall deliver to one of the said functionaries, or if there be none such to any two respectable merchants there, or if there be but one then to such one merchant, a just and true account of the wages due to such person, and pay the same to the seaman either in money or by a bill drawn upon the owner of his ship; and if by bill, then such functionary or merchant, according to the case, is hereby authorized and required by certificate indorsed on such bill to testify that the same is drawn according to this act for money due on account of wages of a seaman, or to that effect; and any such master who shall deliver a false account, or refuse or neglect to deliver a just and true account of the wages due to such person, and to pay the amount thereof in money or by bill as aforesaid, shall for every such offence forfeit and pay, in addition to the wages due, the penal sum of twenty-five pounds.

Act not to exseamen from entering into the navy.

XLV. Provided always, That nothing in this act or in any agreement tend to prevent contained shall be deemed to extend to prevent any seaman or person belonging to any merchant ship whatever from entering or being received into the naval service of his Majesty, nor shall any such entry be deemed a desertion from the merchant ship, nor incur any penalty or

forfeiture whatever, either of wages, clothes, or effects, or other matter No. XXX. or thing, notwithstanding any agreement made to the contrary hereof; 5 & 6 W. 4, and all masters and owners of ships are strictly prohibited from introducing into any ship's articles or agreement with the crew any clause or matter by which any penalty or forfeiture of any kind is agreed to be

incurred by a seaman upon his entry into his Majesty's service.

XLVI. That when any seaman shall quit a merchant ship in order to Upon entry of enter into his Majesty's naval service, and shall thereupon be actually seamen into the received into such service, not having previously committed any act navy from meramounting to and treated by the master as a total desertion, he shall be chant ships entitled immediately upon such entry to the delivery up of all his clothes they shall be and effects on board such merchant ship, and (in case the ship shall entitled to the have earned freight) to receive from the master the payment of the prolivery up of portionate amount of his wages up to the period of such entry, either in their clothes money or by a bill on the owner thereof; all which clothes, effects, and payment of money, and bill such master is hereby required to deliver up to him ac- any wages that cordingly, under a penalty of twenty-five pounds for any refusal or may be due. neglect, to be recovered, with full costs of suit, by such seaman: Provided always, that if no freight shall have been earned at the time of such entry, then the master shall and he is hereby required to give the seaman so entering a bill upon the owner for his wages to the period of such entry, payable on the ship's safe arrival at her destined port; but in case the master shall have no means of ascertaining the balance justly due he shall make out and deliver to such seaman a certificate of the period of his services and the rate of wages he is entitled to, producing at the same time to the commanding or other officer of his Majesty's ship the agreement entered into with the seaman for the voyage; and every such master, upon the delivery up of such clothes and effects and the settlement of such wages in manner herein mentioned, shall be entitled to receive from the officer in command of the ship of his Majesty into which such seaman shall have entered a certificate signed by the said officer, which such officer is hereby required to give upon the request of the master, testifying that such seaman has entered into such ship of his Majesty to serve, as proof that the master had not parted with the seaman contrary to the provisions of this act.

XLVII. That in all cases where any master shall have forced on Power to his shore or left behind any person against the provisions of this act, and Majesty to sue such person shall become distressed and be relieved under the provi- for the amount sions of an act passed in the eleventh year of the reign of his late Ma-advanced for jesty king George the fourth, for amending and consolidating the laws seamen left relating to the pay of the royal navy, or under any act hereafter to be abroad. passed, then, in addition to the wages due from and the penalties imposed on such master, his Majesty shall be entitled to sue such master or the owner of the ship, at the option of the commissioners for executing the office of lord high admiral of the united kingdom, for all the charges and expences which shall have been incurred on the subsistence, necessary clothing, and conveyance home of any such person, as so much money paid, laid out, and expended to the use of the defendant, which, together with full costs of suit, may be recovered in the sa manner as other debts due to his Majesty are recoverable in any court having jurisdiction in cases of debts due to the crown; and in any proceeding for that purpose proof of the account furnished to the said commissioners by any one of such functionaries, or by such two merchants or one merchant, according to the case, as provided by the said act of the eleventh year of king George the fourth, shall, together with proof of payment by the said commissioners or by the treasurer of the navy of the charges incurred on account of any such person, be sufficient evidence that such person was relieved and conveyed home according to the intent of the said act, at his Majesty's expence; and the court in which any proceeding for the recovery of the said money shall be instituted is hereby authorized to issue a commission or commissions for the

c. 19. Ship's agreeat a foreign posited with the consul.

Penalty for neglect.

No seaman to ioreign port without the privity of the consul.

Masters to produce agreements to othcers of king's ships.

Registrar and officers of customs empowered to require production of the agreement and muster roll.

Definition of ter, seaman, ship, and owner.

No. XXX. examination of witnesses abroad, and the depositions taken under such 5 & 6 W. 4, commission or commissions shall be received as evidence.

XLVIII. And in order the more effectually to secure a compliance with the provisions of this act, be it further enacted, That every master of a ship belonging to any subject of his Majesty, on his arrival at any ment on arrival foreign port where there shall be a British consul or vice-consul, shall deliver to such consul or vice-consul the agreement with his ship's port to be de- crew, to be by such consul or vice-consul preserved during the ship's stay there, and to be returned to the master before his leaving the port, without any fee or charge being made for the same; and if any such master shall refuse or neglect to deliver any such agreement to the consul or vice-consul, as is hereby required, he shall for every such offence forfeit and pay the sum of twenty-five pounds.

XLIX. That during the ship's stay at any such foreign port no seabe shipped at a man shall be shipped by any such master except with the privity of such consul or vice-consul, to be indorsed or certified on the agreement, under a penalty of twenty-five pounds to be forfeited by any such master for every seaman who shall be so shipped in breach of this act.

> L. That the master of every ship belonging to any subject of his Majesty as aforesaid shall and he is hereby required to produce and show the muster roll of the ship and the agreement with his crew to the captain, commander, or other commissioned officer of any of his Majesty's ships requiring a production and sight thereof; and that it shall be lawful for any such officer in his Majesty's naval service, if he shall think it necessary so to do, to muster the crew and passengers (if any) of any ship belonging to any subject as aforesaid, in order to be satisfied that the provisions of this act and of any other act by which the crews of merchant ships are regulated, and the laws relating to navigation with respect to the crews of merchant ships, have been duly complied with; and if any such master shall, upon being required so to do by any such officer, neglect or refuse to produce such muster roll or such agreement, or shall obstruct any such officer in the execution of his duty in mustering the said crew or passengers, or shall produce any false muster roll, he shall for every such offence forfeit and pay the sum of twenty-five pounds.

> LI. That for the better carrying into effect the purposes of this act it shall be lawful for the said registrar and his assistants, and also for the respective collectors or other chief officers of the customs, at the several ports of the united kingdom and of the British possessions abroad, to demand from the master of every ship hereby required to enter into an agreement with his crew the production of the muster roll of the ship and also of such agreement, with liberty to take a copy of either or both, and to muster the crew and apprentices of such ship, for the purpose of ascertaining whether the provisions of this act and of the laws relating to navigation have been complied with; and if any such master, on such demand being made, shall refuse or neglect to produce such muster roll or agreement, or shall refuse to allow a copy of either document to be taken, or shall refuse to permit or shall prevent his crew and apprentices from being so mustered, he shall for every such neglect, refusal, or offence forfeit and pay the sum of fifty pounds.

LII. And to avoid doubts in the construction of this act, be it further the terms mas- enacted, That every person having the charge or command of any ship belonging to any subject of the united kingdom shall, within the meaning and for the purposes of this act, be deemed and taken to be the master of such ship; and that every person (apprentices excepted) who shall be employed or engaged to serve in any capacity on board the same, shall in like manner be deemed and taken to be a seaman within the meaning and for the purposes of this act; and that the term "ship," as used in this act, shall be taken and understood to comprehend every description of vessel navigating on the sea; and that the term "owner," as applied to a ship, shall be understood to comprehend all the several No. XXX. persons, if more than one, to whom the ship shall belong; and that all 5 & 6 W. 4, steam and other vessels employed in carrying passengers or goods shall be deemed trading ships within the meaning and for the purposes of this act.

LIII. That all penalties and forfeitures imposed by this act, and for Recovery of the recovery whereof no specific mode is herein-before provided, shall penalties. and may be recovered, with costs of suit, in manner following; (that is to say,) all penalties and forfeitures not exceeding twenty pounds shall be recoverable at the suit of any person by information and summary proceeding before any one or more justice or justices of the peace in any part of his Majesty's dominions, residing near to the place where the offence shall be committed or where the offender shall be, which justice or justices shall have full power to levy the amount of any such penalty or forfeiture and costs by distress and sale of the offender's goods, or by commitment of the offender for nonpayment of the amount; and all penalties and forfeitures exceeding twenty pounds shall and may be recovered, with costs of suit, in any of his Majesty's courts of record at Westminster, Edinburgh, or Dublin, or in the colonies, at the suit of his Majesty's attorney general or other chief law officer of the crown in any part of his Majesty's dominions other than in Scotland, and if in Scotland at the suit of the lord advocate; and that all penalties and for-Application of feitures mentioned in this act for which no specific application is herein-forfeitures. before provided shall, when recovered, be paid and applied in manner following; (that is to say,) one moiety of every such penalty shall be paid to the informer or person upon whose discovery or information the same shall be recovered, and the residue shall be divided between Greenwich hospital and the merchant seamen's hospital or institution at the port to which the ship shall belong, and if there shall be none such at the said port, then the whole of the said residue shall be paid to Greenwich hospital: Provided always, That it shall be lawful for the court before which or the justice or justices before whom any proceedings shall be instituted for the recovery of any pecuniary penalty imposed by this act to mitigate or reduce such penalty as to such court or justices respectively shall appear just and reasonable, in such manner, however, that no such penalty shall be reduced below one half of its original amount: And provided also, That all proceedings so to be instituted shall be commenced within two years next after the commission of the offence, if the same shall have been committed at or beyond the Cape of Good Hope or Cape Horn, or within one year if committed on the European side of those limits, or within six calendar months after the return of the offender or the complaining party to the united kingdom.

LIV. Provided always, That this act shall not extend or apply to any As to ships ship registered in or belonging to any British colony having a legislative belonging to assembly, or to the crew of any such ship, while such ship shall be any British within the precincts of such colony; any thing herein-before contained colony having to the contrary in anywise notwithstanding.

a legislature.

Americant corneided that the

to be obedient to the lawful

t themselves i

SCHEDULES to which this ACT refers.

SCHEDULE (A.)

AN Agreement made, pursuant to the Directions of an Act of Parliament passed in the Sixth Year of the Reign of His Majesty King William the Fourth, between the Fourth, between burthen of

tons, and the several Persons whose Names are subscribed hereto.

here the intended Vousne is to It is agreed by and on the Part of the said Persons, and they severally hereby engage, to serve on board the said Ship in the several capacities d, on a Voyage from the Port of

the Places of which it is intended the Shin shall trank no if that remark he done the Nature of

any other Clauses t relating to the sai er, and to be at all the Port of

r doth hereby promise and agree to pay to the said Crew, by way of (ed. In witness whereof the said Parties have hereto subscribed the A the Provisions and Spirit of this Act., In confideration of which is

p-	Owners, &c.				
	Name of Ship in which the Seaman last				
	Witness to Sugneture.				
	Amount of Wages per Calendar Month,				
	Quality.				
	Place of Birth.				
	Age.				
	Men's Name.				
		Year.			
	Satey.	Day. Month. Year.			
	Time of	Day.			
	Place and Time of Entry.				
'					

Note.—Any Emberslement or wilful or negligent Loss or Destruction of any Part of the Ship's Cargo or Stores may be made good to the owner out of the Wages (so far as they will extend) of the Seaman guilty of the same; and if any Seaman shall enter himself as qualified for a duty to which he shall prove to be not competent, he will be subject to a Reduction of the Rate of Wages hereby agreed for in proportion to his

SCHEDULE (B.)

An Agreement made, purment to the Directions of an Act of Parliament passed in the Sixth Year of the Reign of His Majesty King William of the Port of the Master of the Ship the Fourth, between

Tons, and the several Persons whose Names are subscribed hereto.

ere the Nature of the Ship's employment is to be described, ersey, Guernacy, ge, to serve on board the said ship in the said several

to another e inclusive

whether in the Fisheries, on th Capacities against their resp. It is agreed by and on the

and of the Burthen of

to conduct themselves in an Alderney, Sark, and Man, or

be at all

uls, Stores, and

further engage tive Duties and

Stations, and to be obedient to the lawful Commands of the Master in every thing relating to the

Boats, or on Shore [here may be inserted any other Clauses which the Parties may think proper to the same be not contrary to or inconsistent with the Provisions and Spirit of this Act.] In considera-

refully, and faithfully performed, the said Master doth hereby promise to pay to the said Crew, by against their Names respectively expressed: Provided always, and it is bereby declared, that no a the Ship during any Voyage in which she may be engaged, nor at any other than a Port in the d Parties have hereto subscribed their Names on the Days against their respective Signatures

Ship-Owners, &c.					
Name of Ship in which the Seaman last	perved.				
Witness to Signature.					
Amount of Wages per Calendar Month,	Share, of Voyage.				
Quality.					
Place of Birth.					
A86.					
Men's Name.					
	Day. Month. Year.				
Eatry.	Month,				
Time of	Day.				
Place and Time of Eatry.					

Note.—Any Embezzlement or wilful or negligent Loss or Destruction of any Part of the Ship's Cargo or Stores may be made good to the Owner out of the Wages (so far as they will extend) of the Seaman guilty of the same; and if any Seaman shall enter himself as qualified for a Duty to which he shall prove to be not competent, he will be subject to a Reduction of the Rate of Wages hereby agreed for in proportion to his

Incompetency.

SCHEDULE (C.)

in the United Kingdom, and of the Men who joined the Ship subsequent to such being her Port of destination in the United Kingdom. was Master. A List of the Crew (including the Master and Apprentices) at the period of her sailing from the Port of whereof first Departure on her Voyage to of the Port of Departure and until her Return to the Port of from which she took her Ship

rade, Nav	
How disposed of.	
Place where.	
Time of Death or leaving the Ship.	
Place where.	
Date of joining the Ship.	
Ship in which he last served.	
Quality.	
Place of Birth.	
Age.	
Name.	

Note.—If any one of the Crew has entered His Majesty's Service, the Name of the King's Ship in which he entered must be stated in the Account under the Head of "How disposed of."

Note.—This List, to be filled up and being signed by the Master, is to be delivered by him to the Collector or Comptroller of the Customs, on reporting his Ship Inwards, on her Arrival at her Port of Destination in the United Kingdom.

SCHEDULE (D.)

which the Ship An Account of the Voyages in

Day of

One thousand eight hundred and

Ship during that period.

One thousand eight hundred and

has been engaged in the Half Year commencing on the

and ending on the

Day of

and of all the Persons (Master and Apprentices included) who have belonged to such

ACCOUNT OF THE VOYAGES.

[Here the several Voyages and the Periods of such Voyages are to be described.]

ACCOUNT OF THE CREW.

	How disposed of.		
	Place where.		
	Time of Death or leaving the Ship.		
	Place where.		-
	Date of joining the Ship.		
	Ship in which he last served.		
	Quality.		
	Place of Birth.		
	Age.		`
	Name.		
	- 	1	

Note.—If any one of the Crew shall have entered His Majesty's Service, the Name of the King's Ship in which he entered must be stated in this Account under the Head of "How disposed of."

Note.—This Account, when filled up, is to be signed by the Owner, and deposited with the Collector or Comptroller of the Customs of the Port to which the Ship shall belong, or with the Registrar of Merchant Seamen in London.

[No. XXXI.] 5 & 6 W. IV. c. 24.—An Act for the Voluntary Enlistment of Seamen, and to make Regulations for more effectually Manning His Majesty's Navy.

[No. XXXII.] 5 & 6 W. IV. c. 53.—An Act to repeal an Act of the Ninth Year of his late Majesty for regulating the Carriage of Passengers in Merchant Vessels from the United Kingdom to the British Possessions on the Continent and Islands of North America; and to make further Provision for regulating the Carriage of Passengers from the United Kingdom. [31st August 1835.]

WHEREAS it is expedient to make provision respecting the carriage of passengers from the united kingdom to distant countries, and for that purpose to repeal a certain act passed in the ninth year of the reign of his late Majesty king George the fourth, intituled An Act to regulate the Carriage of Passengers in Merchants Vessels from the United Kingdom to the Continent and Islands of North America: Be it therefore enacted, &c., That the said recited act shall be and the same is hereby cited act, ex-repealed: Provided nevertheless, That all fines, forfeitures, and penalties to which any person or persons may have become liable under the said act shall and may be sued for, prosecuted, and recovered; and that curred, and to any right of action which may have accrued to any person or persons rights of action by virtue of the said act shall and may be enforced hereafter in such and the same manner in all respects as if this present act had not been

II. That no ship carrying passengers from any port or place in the with more than united kingdom, or in the islands of Guernsey, Jersey, Alderney, Sark, or Man, on any voyage to or for any port or place out of Europe, and not being within the Mediterranean sea, shall proceed on her voyage every five tons with more persons on board than in the proportion of three persons for every five tons of the registered burthen of such ship, the master and crew being included in and forming a part of such prescribed number; Ships carrying and that no such ship having more than one deck shall carry any paspassengers to sengers upon any such voyage as aforesaid unless she shall be of the have a height heighth of five feet and a half at the least between decks; and that no of five feet and such ship having only one deck shall carry any passengers upon any a half between such voyage as aforesaid unless a platform shall be laid beneath such deck in such a manner as to afford a space of the heighth of at least five feet and a half, and that no such ship shall have more than two tiers of berths; and that no such ship having two tiers of berths shall carry any passengers on any such voyage as aforesaid unless there shall berths, the floor be an interval of six inches at the least between the deck or platform and the floor of the lower tier throughout the whole extent thereof: Provided always, That, whatever may be the tonnage of the ship, no greater number of persons as passengers shall be taken on board than shall be after the rate of one such person for every ten superficial feet of the lower deck or platform unoccupied by goods or stores, not being the personal luggage of such persons, if such ship shall not have to pass the line on her voyage, or after the rate of one such person for every fifteen such clear superficial feet if such ship shall have to pass the line.

III. That no ship carrying passengers on any such voyage as aforesaid shall be cleared out for such voyage from any port in the united water and pro- kingdom, or in the said islands of Guernsey, Jersey, Alderney, Sark, or Man, unless and until there shall be actually laden and on board such ship good and wholesome provisions for the use and consumption of the

9 G. 4, e. 21.

Repeal of recept as to penalties inwhich may bave accrued.

No ship to sail three persons on board for of burthen.

decks.

When only two tiers of of the lower tier to be six inches above the deck.

Regulating the quantity of visions to be carried by

said passengers, over and above the victualling of the crew, to the No. XXXII. amount or in the proportion following; that is to say, a supply of pure 5 & 6 W.4, water to the amount of five gallons to every week of the computed voyage for every passenger on board such ship, such water being carried in tanks or sweet casks, and a supply of bread, biscuit, oatmeal, every vessel or bread stuffs to the amount of seven pounds weight, to every week of with passenthe computed voyage for every such passenger: Provided always, That gers on board. to the extent of one-third of such supply, and no more, seven pounds weight of potatoes may be deemed and computed to be equivalent to one pound weight of bread, biscuit, oatmeal, or bread stuffs in the supply of any ship bound to some place in North America: Provided also, That when any ship shall be destined to call at a port or place in the course of her voyage for the purpose of filling up her water, a supply of water at the rate before mentioned for every week of the computed voyage to such port or place of calling shall be deemed to be a compliance with the provisions of this act.

IV. That the number of weeks deemed to be necessary for the voyage Computed of any such ship, according to her destination, shall be determined by number of the following rule of computation; (that is to say,)

weeks requisite for voyage of vessel.

For a voyage to North America, ten weeks:

For a voyage to South America on the Atlantic Ocean, or to the West Coast of Africa, twelve weeks:

For a voyage to the Cape of Good Hope, fifteen weeks:

For a voyage to the Mauritius, eighteen weeks:

For any other voyage, twenty-four weeks.

V. That, before any such ship shall be cleared out for the voyage, the Officers of cusofficers of the customs shall survey, or cause to be surveyed by some toms to exacompetent person, the provisions and water herein-before required for mine provisions the consumption of the passengers, and shall ascertain that the same and water beare in a sweet and good condition, and shall also ascertain that, over and of water beare in a sweet and good condition, and shall also ascertain that, over and of water beared. above the same, there is on board an ample supply of water and stores for the victualling of the crew of the ship; and such officers shall also ascertain that the directions herein-before contained in respect of the situations of berths have been complied with.

VI. That the master of every such ship shall cause a table to be A table to be drawn up of the respective prices at which any provisions or stores that made of the may be sold by any person on board to any of the passengers during the prices of provoyage are to be supplied; and that a copy of the same, printed or visions to be written in a fair and legible manner, shall be affixed in some convenient sold on board. and conspicuous place on board the said ship for the perusal of all parties, and that the same shall be maintained for continual reference as well during the period in which passengers shall be engaged as during the whole of the voyage; and that no higher prices than are stated in such table shall in any case be charged for such provisions or stores as may be so supplied during the voyage: Provided nevertheless, That nothing herein contained shall be construed as requiring the master of any ship to provide provisions or stores for the purpose of sale to any passengers who may have contracted to victual themselves during the voyage.

VII. That if doubts shall arise whether any ship about to proceed Seaworthiness with passengers as aforesaid is sea-worthy, so as to be fit for her in- of the ship tended voyage, and such doubts shall not be removed to the satisfaction may be ascerof the collector and comptroller of the customs at the port from which tained by sursuch vessel is to be cleared out, it shall be lawful for such collector and vey. comptroller at any time to cause such ship to be surveyed by two competent persons; and if it shall be reported by those persons that such ship is not in their opinion sea-worthy with reference to such voyage, such ship shall not be cleared out unless the contents of such report be

on board for perusal of passengers.

With every ship carrying a medical practitioner to sail; in every ship carrying a smaller number, medicines of sufficient amount and kind to be carried.

Ships carrying passengers as aforesaid prohibited from exporting spirits, &c. as merchandize.

Master to deliver list of passengers to collector of customs, who shall give to the master a counterpart, to be exhibited to the chief officer of customs at the port of landing.

No. XXXII. disproved to the satisfaction of the commissioners of the customs, or 5 & 6 W. 4, until such ship shall have been rendered sea-worthy.

VIII. That two copies of this act, or abstracts of the same, made, provided, and issued by the authority of the commissioners of the Copies or ab- customs, and authenticated by the signature of the collector or compstracts of this troller of the customs at the port of clearance of the ship, shall be deliact to be kept vered to the master, on demand, by such collector or comptroller at the time of clearance, and shall be kept on board every ship proceeding with passengers as aforesaid, and that one of such copies or abstracts shall, upon request made at seasonable times to the master of the ship,

be produced to any passenger for his perusal

IX. That no ship carrying passengers in any such voyage as aforesaid to any such port or place as aforesaid, except any port or place in 100 passengers North America, if the number of such passengers shall amount to or exceed one hundred, shall clear out for such voyage from any port in the united kingdom, or in the said islands of Guernsey, Jersey, Alderney, Sark, or Man, unless there shall be rated upon the ship's company, and shall be actually serving on board such ship, some person duly authorized by law to practise in this kingdom as a physician or surgeon or apothecary, and that no such ship shall actually put to sea or proceed on such voyage unless such medical practitioner shall be therein, and shall bond fide proceed on such voyage, taking with him a medicine chest, and a proper supply of medicines, instruments, and other things suitable to the intended voyage; and no ship carrying passengers under the provisions of this act shall clear out for any voyage from any such port as aforesaid unless and until there shall be actually laden and on board such ship medicines and other things necessary for the medical treatment of the passengers on board during such intended voyage, and available for that purpose, nor unless such medicines and other things shall be adequate in amount and kind to the probable exigencies of any such voyage; and, together with such medicines and other things, shall also be put on board every such ship previously to her clearing out for any such voyage as aforesaid a certificate under the hands of any two or more such medical practitioners as aforesaid, to the effect that such medicines and other things have been inspected by them, and are, in their judgment, adequate to meet any such probable exigencies as aforesaid.

X. That no ship carrying passengers to any place as aforesaid shall be cleared out if there shall be laden on board such ship by way of stores, over and above the stores proper for the crew of such ship, any quantity of spirits or strong waters beyond one tenth part of such quantity as would, except for this restriction, be allowed by the officers of the customs upon the victualling bill of such ship for the outward voyage only, according to the number of persons going the voyage.

XI. That the master of every ship carrying passengers on any such voyage as aforesaid shall, before clearing out his said ship for such voyage from any port or place in the united kingdom, or in the said islands of Guernsey, Jersey, Alderney, Sark, or Man, deliver to the collector or other principal officer of his Majesty's customs at such port or place, a list in writing, together with a duplicate of the same, specifying, as accurately as may be, the names, ages, and professions or occupations of all and every the passengers on board such ship, with the name of the port or place at which he the said master hath contracted to land each of the said passengers; and such collector or other chief officer of customs shall thereupon deliver to the said master a counterpart of such list signed by him the said collector or other chief officer as aforesaid; and the said master shall exhibit the said counterpart of his said list to the collector or other chief officer of his Majesty's customs at any port or place in his Majesty's possessions, or to his Majesty's consul at any foreign port, at which the said passengers, or any of them, shall be landed, and shall deposit the same with such collector or chief officer of

customs, or such consul, as the case may be, at his final port of dis- No. XXXII

charge in the said possessions.

XII. And for the prevention of frauds which might be practised upon persons emigrating from the united kingdom, be it further enacted, That the master of any ship carrying any passengers as aforesaid shall Penalty on not, without his or her previous consent, land or put on shore, or cause master improto be landed or put on shore, any passenger at any port or place other perly landing than the port or place at which he may have contracted to land or put passengers at such passenger on shore. any place not contracted for.

XIII. Provided always, and be it further enacted and declared, That How children for the purpose and within the meaning of this act two children, each are to be combeing under the age of fourteen years, but above the age of seven years, puted in the or three children, each being under the age of seven years, shall in all enumeration of cases be computed as one person only; and that children under the age passengers. of twelve months shall not be included in the computation of the num-

ber of persons.

XIV. That if any ship shall not actually put to sea and proceed upon Fines in case of any such intended voyage as aforesaid on the day for that purpose ap-detention. pointed in and by any contract made by the owner, master, or charterer of such ship, or by their agent, with any passenger who shall on that day be on board the same, or ready to proceed on such intended voyage, then and in every such case the master of such ship shall pay to each and every such passenger as shall have contracted to victual himself a fine, to be computed at and after the rate of one shilling in respect of each day during which he or she shall be so detained previously to the actual clearing out and final departure of such ship on such voyage, and that the same may be recovered daily; and the master of such ship shall victual each and every such passenger as shall have contracted to be victualled by the ship owner on and from the day which shall be so appointed: Provided always, That no such fine as aforesaid shall be incurred or be payable in respect of any detention of any such vessel which shall be so detained by stress of weather or other unavoidable cause.

XV. That at the close of any such voyage as aforesaid every person Passengers to arriving as a passenger at any port or place shall, during the space of be maintained forty-eight hours next after such arrival, be entitled to continue on for 48 hours board such ship, and to be provided for and maintained on board the after their same in such and the same manner as during such voyage, unless in arrival. any case it shall have been expressly stipulated and agreed between any such passenger and the master of such ship that such passenger shall not be entitled to such provision or maintenance during the said period of forty-eight hours, or unless in the ulterior prosecution of her voyage any such ship shall quit any such port or place within the said period of

forty-eight hours.

XVI. That if any ship carrying passengers on any voyage from any Penalties in port or place in the united kingdom, or in the islands of Guernsey, Jer- case of insey, Alderney, Sark, or Man, on any voyage to or for any port or place fringement of out of Europe, and not being in the Mediterranean sea, shall carry any the preceding umber of passengers exceeding by more than one person in fifty the enactments. proportion authorized and allowed by this present act; or if such ship shall not be of the height between decks herein-before required; or if such a platform as herein-before directed shall not be laid and continued throughout the whole duration of any such voyage in such manner as is herein-before required; or if there shall be more than two tiers of berths; or if there shall not be throughout the whole duration of any such voyage such an interval as is herein-hefore prescribed between the deck and the floor of the lower tier of berths; or if any such ship shall clear out and put to sea not having on board such water and provisions as aforesaid, for the use and consumption of the said passengers, of the kind and to the amount and in the proportion herein-before required; or if a table of the prices of provisions or stores shall not be exhibited as herein-before required; or if any higher prices than are named in such

5 & 6 W. 4, c. 53.

c. 53.

No. XXXII. table shall be charged; or if there shall not be on board any such vessel 5 & 6 W. 4, such medical practitioner as aforesaid, or such medicines and other things necessary to the medical treatment of the passengers, as is herein-before required; or if any such ship shall be cleared out before such lists of passengers as herein-before mentioned shall have been delivered in manner and form aforesaid to such officer as aforesaid; or if any such list shall be wilfully false; or if the copy or abstract of this act be not produced as herein-before required; or if any passenger shall not be allowed to continue on board such ship in manner herein-before provided; or if any passenger shall, without his or her previous consent, be put on shore at any place other than the place at which the master had contracted to land such passenger; the master of any such ship shall for and in respect of each and every such offence be liable, on such summary conviction as herein-after mentioned; to the payment of a fine of not less than five pounds nor more than twenty pounds sterling British money.

The right of action of passengers not to be taken away or abridged.

XVII. Provided nevertheless, That nothing herein contained shall take away or abridge any right of suit or action which may accrue to any passenger in any such ship, or to any other person, in respect of the breach or nonperformance of any contract made or entered into between or on the behalf of any such passenger or other person, and the master, owner or owners of any such ship.

Prosecution penalties.

XVIII. That all indictments or informations against any person or and recovery of persons for or in respect of any offences by them committed or alleged to have been committed under this act, and that all proceedings for the recovery of any fines, penalties, or forfeitures incurred or alleged to have been incurred by any person or persons under this act, shall be preferred and prosecuted by any person or persons whomsoever, and shall be proceeded with and determined before such and the same courts, magistrates, and justices of the peace, and in such and the same manner, and by such and the same persons, and with, under, and subject to all such and the same rules, provisoes, conditions, and restrictions, as in the case of any indictments or informations preferred or proceedings taken for or in respect of any offence committed, or for the recovery of any fines, penalties, or forfeitures incurred, under any act of parliament now in force for the prevention of smuggling, or relating to the customs or to trade or navigation: Provided always, That in order to the preferring, prosecuting, proceeding with, or determining any such indictments or informations under this present act, the direction or consent of the commissioners of customs shall not be necessary or required, any thing in such acts of parliament as aforesaid to the contrary in anywise notwithstanding.

Masters of vessels to enter into bond (Without due performance of the regulations prescribed by this act.

XIX. And for the more effectually securing the observance of the aforesaid rules, and the payment of the penalties aforesaid; be it further enacted, That before any ship carrying passengers shall clear out for any such voyage as aforesaid from any port or place in the united stamps) for the kingdom, or in the said islands of Guernsey, Jersey, Alderney, Sark, or Man, to or for any port or place out of Europe, and not being in the Mediterranean sea, the master of the said ship shall enter into a bond to his Majesty, his heirs and successors, with one good and sufficient surety, to be approved by the collector or other chief officer of customs at such port, in the sum of one thousand pounds, the condition of which bond shall be that the said ship is sea-worthy, and that all and every the rules and regulations made and prescribed by this act for the carriage of passengers shall be well and truly performed before and during such intended voyage, and that all penalties, fines, and forfeitures which the master of such ship may be sentenced or adjudged to pay for or in respect of the breach or nonperformance, before or during such voyage, of any such rules and regulations, shall be well and truly paid: Provided always, That such bond shall be without stamps, and that no such bond shall be put in suit, and that no prosecution, suit, action, or information shall be brought under or by virtue of this act, or upon

Limitation of prosecutions.

or by reason of the breach of any of the provisions thereof, in any of No. XXXII. his Majesty's possessions abroad after the expiration of twelve calendar 5 & 6 W. 4, months next succeeding the commencement of any such voyage as aforesaid, nor in the united kingdom or any of the islands before mentioned after the expiration of twelve calendar months next after the return of the master to the port or place from which he sailed on such

voyage. XX. That nothing in this act contained shall extend or be construed Exception of to extend to ships carrying passengers in cases in which the number of particular kinds persons, computed in manner herein-before provided, shall not exceed of ships. one person for every five tons of the registered burthen of such ship; nor shall any thing in this act contained extend to any ship in the service of the lords commissioners of his Majesty's admiralty, or in the service of his Majesty's postmaster general, or in the service of the East India company.

XXI. And be it further enacted and declared, That the Bahama Bahamas, &c. islands, and all places in America southward of the same, shall be to be deemed deemed to be in South America for the purposes of this act.

in South America.

[No. XXXIII.] 5 & 6 W. IV. c. 56.—An Act to regulate the Admeasurement of the Tonnage and Burthen of the Merchant Shipping of the United Kingdom.

[9th September 1835.]

WHEREAS by an act passed in the third and fourth years of the 3 & 4 W. 4, reign of his present Majeaty, for the registering of British vessels, c. 55. certain rules are established for ascertaining the tonnage of ships as well on shore as afloat, and of vessels propelled by steam; and the account of such tonnage, whenever the same shall have been ascertained according to the rules therein prescribed (except in the case of ships admessured affoat), it is thereby enacted shall be deemed the tonnage of such ships, and shall be repeated in every subsequent registry of such ships, unless any alteration shall have been made in their form and burthen, or unless it be discovered that the tonnage had been erroneously computed: And whereas it is considered that the capacity of a ship is the fairest standard by which to regulate its tonnage, that internal measurements will afford the most accurate and convenient method of ascertaining that capacity, and that the adoption of such a mode of admeasurement will tend to the interests of the ship builder and the owner, as well as to the proper collection of the dues which by law are payable on Rules estatonnage; and it is expedient to alter and amend the law in this respect: blished by Be it therefore enacted, &c., That from and after the commencement of recited act for this act so much of the said recited act as establishes rules for ascer-ascertaining taining the tonnage of ships shall be and the same is hereby repealed so tonnage refar as respects the merchant shipping of the united kingdom to be pealed. thereafter registered.

II. That from and after the commencement of this act the tonnage of The rule by every ship or vessel required by law to be registered shall, previous to which tonnage her being registered, be measured and ascertained while her hold is of vessels is to clear, and according to the following rule; (that is to say,) divide the be ascertained. length of the upper deck between the afterpart of the stem and the forepart of the stern-post into six equal parts. Depths: At the foremost, the middle, and the aftermost of those points of division, measure in feet and decimal parts of a foot the depths from the under side of the upper deck to the ceiling at the limber strake. In the case of a break in the upper deck, the depths are to be measured from a line stretched in a continuation of the deck. Breadths: Divide each of those three depths into five equal parts, and measure the inside breadths at the following points; videlicit, at one fifth and at four fifths from the upper deck of the foremost and aftermost depths, and at two fifths and four

No. XXXIII. fifths from the upper deck of the midship depth. Length: At half the 5 & 6 W. 4, midship depth measure the length of the vessel from the afterpart of the stem to the forepart of the stern-post; then to twice the midship depth add the foremost and the aftermost depths for the sum of the depths; add together the upper and lower breadths at the foremost division, three times the upper breadth, and the lower breadth at the midship division, and the upper and twice the lower breadth at the after division, for the sum of the breadths; then multiply the sum of the depths by the sum of the breadths, and this product by the length, and divide the final product by three thousand five hundred, which will give the number of tons for register. If the vessel have a poop or half deck, or a break in the upper deck, measure the inside mean length, breadth, and height of such part thereof as may be included within the bulk-head; multiply these three measurements together, and dividing the product by 92.4, the quotient will be the number of tons to be added to the result as above found. In order to ascertain the tonnage of open vessels, the depths are to be measured from the upper edge of the upper strake.

Tonnage when ascertained to register.

III. That the tonnage or burthen of every ship belonging to the united kingdom, ascertained in the manner herein-before directed, shall, be entered on in respect of any such ship which shall be registered after the commencement of this act (except as herein-after excepted), be inserted in the certificate of the registry thereof, and be taken and deemed to be the tonnage or burthen thereof for all the purposes of the said recited act.

Mode of ascerof steam vessels.

IV. Provided always, That in each of the several rules herein-before taining tonnage prescribed, when applied for the purpose of ascertaining the tonnage of any ship or vessel propelled by steam, the tonnage due to the cubical contents of the engine room shall be deducted from the total tonnage of the vessel as determined by either of the rules aforesaid, and the remainder shall be deemed the true register tonnage of the said ship or vessel. The tonnage due to the cubical contents of the engine room shall be determined in the following manner; that is to say, measure the inside length of the engine room in feet and decimal parts of a foot from the foremost to the aftermost bulk-head, then multiply the said length by the depth of the ship or vessel at the midship division as aforesaid, and the product by the inside breadth at the same division at two fifths of the depth from the deck taken as aforesaid, and divide the last product by 92.4, and the quotient shall be deemed the tonnage due to the cubical contents of the engine room.

Length and cubical conforth in description of steam vessel.

V. Provided always, That the tonnage due to the cubical contents of the engine room and also the length of the engine room shall be set tents of engine forth in the certificate of registry as part of the description of the ship room to be set or vessel, and that any alteration of such tonnage due to the cubical contents of the engine room or of such length of the engine room, after registry, shall be deemed to be an alteration requiring registry de novo within the meaning of the said act for the registering of ships or vessels.

For ascertainvessels when laden.

VI. That for the purpose of ascertaining the tonnage of all such ing tonnage of ships, whether belonging to the united kingdom or otherwise, as there shall be occasion to measure while their cargoes are on board, the following rule shall be observed and is hereby established; (that is to say,) Measure, first, the length on the upper deck between the afterpart of the stem and the forepart of the stern-post; secondly, the inside breadth on the underside of the upper deck at the middle point of the length; and, thirdly, the depth from the underside of the upper deck down the pump-well to the skin; multiply these three dimensions together, and divide the product by one hundred and thirty, and the quotient will be the amount of the register tonnage of such ships.

Amount of register tonnage to be

VII. That the true amount of the register tonnage of every merchant ship or vessel belonging to the united kingdom, to be ascertained according to the rule by this act established in respect of such ships, shall rved on main be deeply carved or cut in figures of at least three inches in length on the main beam of every such ship or vessel, prior to her being No. XXXIII. registered.

5 & 6 W. 4.

VIII. Provided always, That nothing herein contained shall extend to alter the present measure of tonnage of any ship or vessel which shall have been registered prior to the commencement of this act, Not to alter unless in cases where the owners of any such ships shall require to tonnage of have their tonnage established according to the rule herein-before provessels already vided, or unless there shall be occasion to have any such ship admeasured again on account of any alteration which shall have been made in the form or burthen of the same, in which cases only such ships shall be re-admeasured according to the said rule, and their tonnage registered accordingly.

IX. That this act shall commence and take effect upon and from the Commence-first day of January one thousand eight hundred and thirty-six.

ment of act.

[No. XXXIV.] 5 & 6 W. IV. c. 66.—An Act to amend the Law relating to the Customs.

[9th September 1835.]

[No. XXXV.] 5 & 6 W. IV. c. 67.—An Act for the improvement of the Navigation of the River Shannon.

PART III.

CLASS III.

INSURANCE. (1)

[By the act for the prevention of smuggling, 3 & 4 W 4, c. 53, it is enacted, "That every person who by way of insurance or otherwise shall undertake or agree to deliver any goods to be imported from beyond the seas into any port or place in the united kingdom without paying the duties due on such importation, or any prohibited goods, or who in pursuance of such insurance or otherwise shall deliver, or cause to be delivered, any uncustomed or prohibited goods, and every aider or abettor of such person, shall for every such offence forfeit the sum of five hundred pounds over and above any other penalty to which by law he may be liable; and every person who shall agree to pay any money for the insurance or conveyance of such goods, or shall receive or take such goods into his custody or possession, or suffer the same to be so received or taken, shall also forfeit five hundred pounds, over and above any penalty to which by law he may be liable on account of such goods."]

⁽¹⁾ It has been held that to render a policy valid within the meaning of the 14 G. 3, c. 48 [see Evans's statutes, 2 vol. part 3, class 3,] the party for whose benefit it is effected must have a pecuniary interest in the life or event insured; and that therefore a policy effected by a father in his own name on the life of his son, he not having any pecuniary interest therein, was void.—Halford v. Kymer, 10 B. & C. 724.

authorities, emoluments, profits, and advantages, and such privileges of

No. III. 7 G. 4, c. 46.

3 & 4 W. 4, exclusive banking as are in the said recited act specified, subject nevertheless to the powers and conditions of redemption, and on the terms in the said act mentioned: And whereas an act passed in the seventh year of the reign of his late Majesty king George the fourth, intituled An Act for the better regulating co-partnerships of certain bankers in England, and for amending so much of an Act of the Thirty-ninth and Fortieth Years of the Reign of his late Majesty King George the Third, intituled ' An Act for establishing an Agreement with the Governor and Company of ' the Bank of Enyland for advancing the Sum of Three Millions towards ' the Supply for the Service of the Year One thousand eight hundred,' as relates to the same: And whereas it is expedient that certain privileges of exclusive banking should be continued to the said governor and company for a further limited period, upon certain conditions: And whereas the said governor and company of the Bank of England are willing to deduct and allow to the public, from the sums now payable to the said governor and company for the charges of management of the public unredeemed debt, the annual sum herein-after mentioned, and for the period in this act specified, provided the privilege of exclusive banking specified in this act is continued to the said governor and company for the period specified in this act: May it therefore please your Majesty that it may be enacted; and be it enacted, &c., That the said governor and company of the Bank of England shall have and enjoy such exclusive privilege of banking as is given by this act, as a body corporate, for the period and upon the terms and conditions herein-after mentioned, and subject to termination of such exclusive privilege at the time and in the manner in this act specified.

Bank of England to enjoy an exclusive privilege of banking upon ce tain conditions.

During such privilege, no banking company of more than six persons to issue notes payable on demand within London, or sixty-five miles thereof.

II. That during the continuance of the said privilege, no body politic or corporate, and no society or company, or persons united or to be united in covenants or partnerships, exceeding six persons, shall make or issue in London, or within sixty-five miles thereof, any bill of exchange or promissory note, or engagement for the payment of money on demand, or upon which any person holding the same may obtain payment on demand: Provided always, that nothing herein or in the said recited Act of the seventh year of the reign of his late Majesty king George the fourth contained shall be construed to prevent any body politic or corporate, or any society or company, or incorporated company or corporation, or co-partnership, carrying on and transacting banking business at any greater distance than sixty-five miles from London, and not having any house of business or establishment as bankers in London, or within sixty-five miles thereof, (except as hereinafter mentioned,) to make and issue their bills and notes, payable on demand or otherwise, at the place at which the same shall be issued, being more than sixty-five miles from London, and also in London, and to have an agent or agents in London, or at any other place at which such bills or notes shall be made payable for the purpose of payment only, but no such bill or note shall be for any sum less than five pounds, or be re-issued in London, or within sixty-five miles thereof.

Any company or partnership may carry on business of banking in London, or within 65 miles thereof, upon the terms herein mentioned.

III. And whereas the intention of this act is, that the governor and company of the Bank of England should, during the period stated in this act (subject nevertheless to such redemption as is described in this act), continue to hold and enjoy all the exclusive privileges of banking given by the said recited act of the thirty-ninth and fortieth years of the reign of his Majesty king George the third aforesaid, as regulated by the said recited act of the seventh year of his late Majesty king George the fourth, or any prior or subsequent act or acts of parliament, but no other or further exclusive privilege of banking: And whereas doubts have arisen as to the construction of the said acts, and as to the extent of such exclusive privilege; and it is expedient that all such doubts should be removed, be it therefore declared and enacted, That any body politic or corporate, or society, or company, or partnership, although consisting of more than six persons, may carry on the trade or business

of banking in London, or within sixty-five miles thereof, provided that such body politic or corporate, or society, or company, or partnership do 3 & 4 W. 4, not borrow, owe, or take up in England any sum or sums of money on their bills or notes payable on demand, or at any less time than six months from the borrowing thereof, during the continuance of the privileges granted by this act to the said governor and company of the bank of England.

No. III. c. 98.

IV. Provided always, That from and after the first day of August All notes of the one thousand eight hundred and thirty-four all promissory notes pay-bank of Engable on demand of the governor and company of the Bank of England land payable which shall be issued at any place in that part of the united kingdom on demand called England out of London, where the trade and business of bank- issued out of ing shall be carried on for and on behalf of the said governor and com- London shall pany of the bank of England, shall be made payable at the place where be payable at such promissory notes shall be issued; and it shall not be lawful for the place where the said governor and company, or any committee, agent, cashier, issued, &c. officer, or servant of the said governor and company, to issue, at any such place out of London, any promissory note payable on demand which shall not be made payable at the place where the same shall be issued, any thing in the said recited act of the seventh year aforesaid to

which shall be

the contrary notwithstanding.

V. That upon one year's notice given within six months after the Exclusive priexpiration of ten years from the first day of August one thousand eight vileges hereby hundred and thirty-four, and upon re-payment by parliament to the given to end said governor and company or their successors, of all principal money upon one year's interest, or annuities which may be due from the public to the said notice given at governor and company at the time of the expiration of such notice, in the end of ten like manner as is herein-after stipulated and provided, in the event of years after such notice being deferred until after the first day of August one thou- August 1834. sand eight hundred and fifty-five, the said exclusive privileges of What shall be banking granted by this act shall cease and determine at the expiration deemed suffiof such year's notice; and any vote or resolution of the House of cient notice. Commons, signified by the speaker of the said house in writing, and delivered at the public office of the said governor and company, or their successors, shall be deemed and adjudged to be a sufficient notice.

VI. That from and after the first day of August one thousand eight Bank notes to hundred and thirty-four, unless and until parliament shall otherwise be a legal direct, a tender of a note or notes of the governor and company of the tender, except bank of England, expressed to be payable to bearer on demand, shall at the bank and be a legal tender, to the amount expressed in such note or notes, and branch banks. shall be taken to be valid as a tender to such amount for all sums above five pounds on all occasions on which any tender of money may be legally made, so long as the bank of England shall continue to pay on demand their said notes in legal coin: Provided always, that no such note or notes shall be deemed a legal tender of payment by the governor and company of the bank of England, or any branch bank of the said governor and company; but the said governor and company are not to become liable or be required to pay and satisfy, at any branch bank of the said governor and company, any note or notes of the said governor and company not made specially payable at such branch bank; but the said governor and company shall be liable to pay and satisfy at the bank of England in London all notes of the said governor and company, or of any branch thereof.

VII. By s. 7. bills not having more than three months to run, are not to be subject to the usury laws. See the clauses, post, Class V. Usury.

VIII. That an account of the amount of bullion and securities in the Accounts of bank of England belonging to the said governor and company, and of bullion, &c. notes in circulation, and of deposits in the said bank, shall be trans_ and of notes in mitted weekly to the chancellor of the exchequer for the time being, circulation to and such accounts shall be consolidated at the end of every month, and be sent weekly an average state of the bank accounts of the preceding three months, lor of the

cheque

No. III.

c. 98. Public to pay the bank one

Capital stock of the bank may be reduced.

made from such consolidated accounts as aforesaid, shall be published 3 & 4 W. 4, every month in the next succeeding London Gazette.

IX. That one-fourth part of the debt of fourteen million six hundred and eighty-six thousand eight hundred pounds, now due from the public to the governor and company of the bank of England, shall and may be repaid to the said governor and company, (1)

fourth part of the debt of 14,686,800l.

X. That a general court of proprietors of the said governor and company of the bank of England shall be held at some time between the passing of this act and the fifth day of October one thousand eight hundred and thirty-four, to determine upon the propriety of dividing and appropriating the sum of three million six hundred thirty-eight thousand two hundred and fifty pounds, out of or by means of the sum to be repaid to the said governor and company as herein-before mentioned, or out of or by means of the fund to be provided for that purpose, amongst the several persons, bodies politic or corporate, who may be proprietors of the capital stock of the said governor and company on the said fifth day of October one thousand eight hundred and thirty-four, and upon the manner and the time for making such division and appropriation, not inconsistent with the provisions for that purpose herein contained; and in case such general court or any adjourned general court, shall determine that it will be proper to make such division, then, but not otherwise, the capital stock of the said governor and company shall be and the same is hereby declared to be reduced from the sum of fourteen million five hundred and fifty-three thousand pounds, of which the same now consists, to the sum of ten millions nine hundred fourteen thousand seven hundred and fifty pounds, making a reduction or difference of three million six hundred and thirty-eight thousand two hundred and fifty pounds capital stock, and such reduction shall take place from and after the said fifth day of October one thousand eight hundred and thirty-four; and thereupon, out of or by means of the sum to be repaid to the said governor and company as herein-before mentioned, or out of or by means of the fund to be provided for that purpose, the sum of three million six hundred and thirtyeight thousand two hundred and fifty pounds sterling, or such proportion of the said fund as shall represent the same, shall be appropriated and divided amongst the several persons, hodies politic or corporate, who may be proprietors of the said sum of fourteen million five hundred and fifty-three thousand pounds bank stock on the said fifth day of October one thousand eight hundred and thirty-four, at the rate of twenty-five pounds sterling for every one hundred pounds of bank stock which such persons, bodies politic and corporate, may then be proprietors of or shall have standing in their respective names in the books kept by the said governor and company for the entry and transfer of such stock, and so in proportion for a greater or lesser sum.

Governor, detion of their share of the capital stock.

XI. Provided always, That the reduction of the share of each proputy governor, prietor of and in the capital stock of the said governor and company of or directors not the bank of England, by the repayment of such one-fourth part thereof, to be disquali-shall not disqualify the present governor, deputy governor, or directors, or any or either of them, or any governor, deputy governor, or director who may be chosen in the room of the present governor, deputy governor, or directors at any time before the general court of the said governor and company to be held between the twenty-fifth day of March and the twenty-fifth day of April one thousand eight hundred and thirty-five: Provided that at the said general court, and from and after the same, no governor, deputy governor, or director of the said corporation shall be capable of being chosen such governor, deputy governor, or director, or shall continue in his or their respective offices,

⁽¹⁾ This payment was provided for by an act passed in the following session 4 & 5 W. 4, c. 80.

unless he or they respectively shall at the time of such choice have, and during such his respective office continue to have, in his and their 3 & 4 W. 4, respective name, in his and their own right, and for his and their own use, the respective sums or shares of and in the capital stock of the said corporation in and by the charter of the said governor and company prescribed as the qualification of governor, deputy governor, and directors respectively.

No. III. c. 98.

XII. Provided also, That no proprietor shall be disqualified from at- Proprietors not tending and voting at any general court of the said governor and com- to be disqualipany, to be held between the said fifth day of October one thousand fied. eight hundred and thirty-four and the twenty-fifth day of April one thousand eight hundred and thirty-five, in consequence of the share of such proprietor of and in the capital stock of the said governor and company having been reduced by such repayment as aforesaid below the sum of five hundred pounds of and in the said capital stock; provided such proprietor had in his own name the full sum of five hundred pounds of and in the said capital stock on the said fifth day of October one thousand eight hundred and thirty-four; nor shall any proprietor be required, between the said fifth day of October one thousand eight hundred and thirty-four and the twenty-fifth day of April one thousand

eight hundred and thirty-five, to take the oath of qualification in the

said charter. XIII. That from and after the said first day of August one thonsand Bank to deduct eight hundred and thirty-four the said governor and company, in con- the annual sum sideration of the privileges of exclusive banking given by this act, shall-of 120,0001. during the continuance of such privileges, but no longer, deduct from from sum althe sums now payable to the said governor and company, for the lowed for macharges of management of the public unredeemed debt, the annual sum nagement of of one hundred and twenty thousand pounds, any thing in any act or acts of parliament or agreement to the contrary notwithstanding: Provided always, That such deduction shall in no respect prejudice or affect the right of the said governor and company to be paid for the management of the public debt at the rate and according to the terms provided in an act passed in the forty-eighth year of his late Majesty 48 G. 3, c. 4. king George the third, intituled An Act to authorize the advancing for the public service, upon certain Conditions, a Proportion of the Balance remaining in the Bank of England for Payment of unclaimed Dividends, Annuities, and Lottery Prizes, and for regulating the Allowances to be made for the Management of the National Debt.

XIV. That all the powers, authorities, franchises, privileges, and ad-Provisions of vantages given or recognized by the said recited act of the thirty-ninth act of and fortieth years aforesaid, as belonging to or enjoyed by the governor 39 & 40 G.3, and company of the bank of England, or by any subsequent act or acts to remain in of parliament, shall be and the same are hereby declared to be in full force, except as force and continued by this act, except so far as the same are altered by altered by this this act, subject nevertheless to such redemption upon the terms and act. conditions following; (that is to say,) that at any time, upon twelve months' notice to be given after the first day of August one thousand eight hundred and fifty-five, and upon repayment by parliament to the said governor and company or their successors of the sum of eleven millions fifteen thousand one hundred pounds, being the debt which will remain due from the public to the said governor and company after the payment of the one fourth of the debt of fourteen millions six hundred and eighty-six thousand eight hundred pounds as herein-before provided, without any deduction, discount, or abatement whatsoever, and upon payment to the said governor and company and their successors of all arrears of the sum of one hundred thousand pounds per annum in the said act of the thirty-ninth and fortieth years aforesaid mentioned, together with the interest or annuities payable upon the said debt or in respect thereof, and also upon repayment of all the principal and interest which shall be owing unto the said governor and company

No. III.

and their successors upon all such tallies, exchequer orders, exchequer 3 & 4 W. 4, bills, or parliamentary funds which the said governor and company or their successors shall have remaining in their hands or be entitled to at the time of such notice to be given as last aforesaid, then and in such case, and not till then, (unless under the proviso herein-before contained,) the said exclusive privileges of banking granted by this act shall cease and determine at the expiration of such notice of twelve months.

> [See the 5 & 6 W. 4, c. 41, to amend the law relating to securities arising out of gaming, usurious, and certain other illegal transactions. See post, Class V. Usury.]

PART III.

CLASS V.

USURY.

[No. I.] 3 & 4 W. IV. c. 98.

[By this act, renewing the bank charter (s. 7) it is enacted "That no bill of exchange or promissory note made payable at or within three months after the date thereof, or not having more than three months to run, shall, by reason of any interest taken thereon or secured thereby, or any agreement to pay or receive or allow interest in discounting, negotiating, or transferring the same, be void, nor shall the liability of any party to any bill of exchange or promissory note be affected by reason of any statute or law in force for the prevention of usury, nor shall any person or persons drawing, accepting, indorsing, or signing, any such bill or note, or lending or advancing any money, or taking more than the present rate of legal interest in Great Britain and Ireland respectively, for the loan of money on any such bill or note, be subject to any penalties under any statute or law relating to usury, or any other penalty or forfeiture, any thing in any law or statute relating to usury in any part of the united kingdom to the contrary notwithstanding."](1)

[No. II.] 5 & 6 W. IV. c. 41.—An Act to amend the Law relating to Securities given for Considerations arising out of gaming, usurious, and certain other illegal Transactions.

[31st August 1835.]

WHEREAS by an act passed in the sixteenth year of the reign of 16 Car. 2, c. 7. his late Majesty king Charles the second, and by an act passed in the parliament of Ireland in the tenth year of the reign of his late Majesty king William the third, each of such acts being intituled An Act 10 Will. 3. (I.) against deceitful, disorderly, and excessive Gaming, it was enacted, That all and singular judgments, statutes, recognizances, mortgages, conveyances, assurances, bonds, bills, specialties, promises, covenants, agreements, and other acts, deeds, and securities whatsoever, which should be obtained, made, given, acknowledged, or entered into for security or satisfaction of or for any money or other thing lost at play or otherwise as in the said acts respectively is mentioned, or for any part thereof, should be utterly void and of none effect: And whereas by an act passed 9 Ann. c. 14. in the ninth year of the reign of her late Majesty queen Anne, and also by an act passed in the parliament of Ireland in the eleventh year of 11 Ann. (I.) the reign of her said late Majesty, each of such acts being intituled An Act for the better preventing of excessive and deceitful Gaming, it was enacted. That from and after the several days therein respectively mentioned all notes, bills, bonds, judgments, mortgages, or other securities or conveyances whatsoever, given, granted, drawn, or entered into or

⁽¹⁾ A warrant of attorney given to secure the amount of a bill at three months, discounted at more than 51. per cent. interest, and which was dishonored when due, was held to be also protected by the above clause.—Connop v. Yeates, 4 Nev. & M. 302.

No. II. c. 41.

executed by any person or persons whatsoever, where the whole or any 5 & 6 W. 4, part of the consideration of such conveyances or securities should be for any money or other valuable thing whatsoever won by gaming or playing at cards, dice, tables, tennis, bowls, or other game or games whatsoever, or by betting on the sides or hands of, such as did game at any of the games aforesaid, or for the reimbursing or repaying any money knowingly lent or advanced for such gaming or betting as aforesaid, or lent or advanced at the time and place of such play to any person or persons so gaming or betting as aforesaid, or that should, during such play, so play or bet, should be utterly void, frustrate, and of none effect, to all intents and purposes whatsoever; and that where such mortgages, securities, or other conveyances should be of lands, tenements, or hereditaments, or should be such as should incumber or affect the same, such mortgages, securities, or other conveyances should enure and be to and for the sole use and benefit of and should devolve upon such person or persons as should or might have or be entitled to such lands or hereditaments in case the said grantor or grantors thereof, or the person or persons so incumbering the same, had been naturally dead, and as if such mortgages, securities, or other conveyances had been made to such person or persons so to be entitled after the decease of the person or persons so encumbering the same; and that all grants or conveyances to be made for the preventing of such lands, tenements, or hereditaments from coming to or devolving upon such person or persons thereby intended to enjoy the same as aforesaid should be deemed fraudulent and void and of none effect, to all intents and purposes what-12 Ann. st. 2, soever: And whereas by an act passed in the twelfth year of the reign of her said late Majesty queen Anne, intituled An Act to reduce the Rate of Interest without any Prejudice to Parliamentary Securities, it was

c. 16.

enacted, That all bonds, contracts, and assurances whatsoever made after the twenty-ninth day of September one thousand seven hundred and fourteen for payment of any principal or money to be lent or covenanted to be performed upon or for any usury, whereupon or whereby there should be reserved or taken above the rate of five pounds in the hundred, as therein mentioned, should be utterly void: And whereas by an act passed in the parliament of Ireland in the fifth year of the reign of his late Majesty king George the second, intituled An Act for reducing the Interest of Money to Six per cent, it was enacted, That all bonds, contracts, and assurances whatsoever made after the first day of May one thousand seven hundred and thirty-two for payment of any principal or money to be lent or covenant to be performed upon or for any loan, whereupon or whereby there should be taken or reserved

5 G. 2. (I.)

above the rate of six pounds in the hundred, should be utterly void: 58 G. 3, c. 93. And whereas by an act passed in the fifty-eighth year of the reign of his late Majesty king George the third, intituled An Act to afford Relief to the bona fide Holders of negotiable Securities without Notice that they were given for a usurious Consideration, it was enacted, That no bill of exchange or promissory note that should be drawn or made after the passing of that act should, though it might have been given for a usurious consideration or upon a usurious contract, be void in the hands of an indorsee for valuable consideration, unless such indorsee had at the time of discounting or paying such consideration for the same actual notice that such bill of exchange or promissory note had been originally given for a usurious consideration or upon a usurious contract: And whereas by an act passed in the parliament of Ireland in the eleventh 11 & 12 G. 3, and twelfth years of the reign of his said late Majesty king George the third, intituled An Act to prevent Frauds committed by Bankrupts, it was enacted, That every bond, bill, note, contract, agreement, or other security whatsoever to be made or given by any bankrupt or by any other

> person unto or to the use of or in trust for any creditor or creditors, or for the security of the payment of any debt or sum of money due from such bankrupt at the time of his becoming bankrupt, or any part thereof, between the time of his becoming bankrupt and such bank-

(I.)

rupt's discharge, as a consideration or to the intent to persuade him, her, or them to consent to or sign any such allowance or certificate, should be wholly void and of no effect, and the monies there secured or agreed to be paid should not be recovered or recoverable: And whereas by an act passed in the forty-fifth year of the reign of his said late Majesty king George the third, intituled An Act for the Encouragement of 45 G. 3, c. 72. Seamen, and for the better and more effectually manning his Majesty's Navy during the present War, it was enacted, That all contracts and agreements which should be entered into, and all bills, notes, and other securities which should be given, by any person or persons for ransom of any ship or vessel, or of any merchandize or goods on board the same, contrary to that act, should be absolutely null and void in law, and of no effect whatsoever: And whereas by an act passed in the sixth year of the reign of his late Majesty king George the fourth, intituled 6 G. 4, c. 16. An Act to amend the Laws relating to Bankrupts, it was enacted, That any contract or security made or given by any bankrupt or other person unto or in trust for any creditor, or for securing the payment of any money due by such bankrupt, at his bankruptcy, as a consideration or with intent to persuade such creditor to consent to or sign the certificate of any such bankrupt, should be void, and the money thereby secured or agreed to be paid should not be recoverable, and the party sued on such contract or security might plead the general issue, and give that act and the special matter in evidence: And whereas securities and instruments made void by virtue of the several herein-before recited acts of the sixteenth year of the reign of his said late Majesty king Charles the second, the tenth year of the reign of his said late Majesty king William the third, the ninth and eleventh years of the reign of her said late Majesty queen Anne, the eleventh and twelfth years of the reign of his said late Majesty king George the third, the forty-fifth year of the reign of his said late Majesty king George the third, and the sixth year of the reign of his said late Majesty king George the fourth, and securities and instruments made void by virtue of the said act of the twelfth year of the reign of her said late Majesty queen Anne, and the fifth year of the reign of his said late Majesty king George the second, other than bills of exchange or promissory notes made valid by the said act of the fifty-eighth year of the reign of his said late Majesty king George the third, are sometimes indorsed, transferred, assigned, or conveyed to purchasers or other persons for a valuable consideration, without notice of the original consideration for which such securities or instruments were given; and the avoidance of such securities or instruments in the hands of such purchasers or other persons is often attended with great hardship and injustice: For remedy thereof be it enacted, &c. That so much of the herein-before re-Securities given cited acts of the sixteenth year of the reign of his said late Majesty for consideraking Charles the second, the tenth year of the reign of his said late tions arising Majesty king William the third, the ninth, eleventh, and twelfth years out of illegal of the reigm of her said late Majesty queen Anne, the fifth year of the transactions reign of his said late Majesty king George the second, the eleventh and not to be void, twelfth and the forty-fifth years of the reign of his said late Majesty deemed to king George the third, and the sixth year of the reign of his said late have been Majesty king George the fourth, as enacts that any note, bill, or mort-given for an gage shall be absolutely void, shall be and the same is hereby repealed; illegal consibut nevertheless every note, bill, or mortgage which if this act had not deration. been passed would, by virtue of the said several lastly herein-before mentioned acts or any of them, have been absolutely void, shall be deemed and taken to have been made, drawn, accepted, given, or executed for an illegal consideration, and the said several acts shall have the same force and effect which they would respectively have had if instead of enacting that any such note, bill, or mortgage should be absolutely void, such acts had respectively provided that every such note, bill, or mortgage should be deemed and taken to have been made, drawn, accepted, given, or executed for an illegal consideration: Pro-

No. II. 5 & 6 W.4. c. 41.

No. II.

the holder of shall be deemed to be paid on account of the person to whom the same was originally given.

Repealing so that securities shall enure for the benefit of parties in remainder.

vided always, That nothing herein contained shall prejudice or affect 5 & 6 W. 4, any note, bill, or mortgage which would have been good and valid if this act had not been passed.

II. That in case any person shall, after the passing of this act, make, Money paid to draw, give, or execute any note, bill, or mortgage for any consideration on account of which the same is by the herein-before recited acts of the such securities sixteenth year of the reign of his said late Majesty king Charles the second, the tenth year of the reign of his said late Majesty king William the third, and the ninth and eleventh years of the reign of her said late Majesty queen Anne, or by any one or more of such acts, declared to be void, and such person shall actually pay to any indorsee, holder, or assignee of such note, bill, or mortgage the amount of the money thereby secured, or any part thereof, such money so paid shall be deemed and taken to have been paid for and on account of the person to whom such note, bill, or mortgage was originally given upon such illegal consideration as aforesaid, and shall be deemed and taken to be a debt due and owing from such last-named person to the person who shall so have paid such money, and shall accordingly be recoverable by

action at law in any of his Majesty's courts of record.

III. That so much of the said acts of the ninth and eleventh years of much of recited the reign of her said late Majesty queen Anne as enacts that where such acts of 9 & 11 mortgages, securities, or other conveyances as therein mentioned should Anne, as enacts be of lands, tenements, or hereditaments, or should be such as should incumber or affect the same, such mortgages, securities, or other conveyances should enure and be to and for the sole use and benefit of and should devolve upon such person or persons as should or might have or be entitled to such lands or hereditaments in case the grantor or grantors thereof, or the person or persons incumbering the same, had heen naturally dead, and as if such mortgages, securities, or other conveyances had been made to such person or persons so to be entitled after the decease of the person or persons so incumbering the same, and that all grants or conveyances to be made for the preventing of such lands, tenements, or hereditaments from coming to or devolving upon such person or persons thereby intended to enjoy the same as aforesaid, should be deemed fraudulent and void and of none effect, to all intents and purposes whatsoever, shall be and the same is hereby repealed; saving to all persons all rights acquired by virtue thereof previously to the passing of this act.

PART III.

CLASS VI.

ANNUITIES.

[No. I.] 10 G. IV. c. 24.—An Act to enable the Commissioners for the Reduction of the National Debt to grant Life Annuities and Annuities for Terms of Years (1). [22nd May 1829.]

WHEREAS an act was passed in the last session of parliament, intituled, An Act to repeal so much of several Acts as empowers the Com- 9 G. 4, c. 16. missioners for the Reduction of the National Debt to grant Life Annuities; and it is expedient that the said commissioners should be enabled to grant such annuities in future according to the duration of human life as ascertained by recent tables of observation thereon, and also to grant annuities to continue for a certain limited term of years; and that all such annuities should be granted in consideration of the transfer of bank annuities, or annuities commonly called long annuities, or in consideration of payment of money to the said commissioners; and that provisions should be made for carrying the said measure into effect as herein-after expressed; be it therefore enacted, &c., That from and after Commissioners the passing of this act it shall be lawful for the commissioners for the for reduction of reduction of the national debt, at such days and times as they shall national debt from time to time appoint by notice in the London Gazette for that pur- may accept pose, to accept and receive from any person or persons whomsoever the transfers of transfer of any bank annuities or long annuities transferrable at the stock, or rebank of England, or to receive any sum or sums of money as the con-ceive money sideration for the purchase of life annuities, or of annuities for a certain for the purlimited term of years, to be chargeable and charged upon and to be chase of payable out of the consolidated fund of the united kingdom; and to sell annuities for and grant apprinting either on the continuance of single lives or on life, immediate and grant annuities, either on the continuance of single lives or on or deferred, or the continuance of two lives, and the life of the longest liver of them, or for terms of upon the joint continuance of two joint lives, such annuities to com- years. mence respectively either immediately or at a period to be fixed at the time of granting any annuity; and also to sell and grant deferred annuities upon the continuance of a single life or joint lives; and also to sell and grant annuities, to continue for any certain limited term of years, to commence either immediately or on any day to be named at the time of granting any such annuity; and also to sell and grant, generally, any immediate annuities, or any temporary annuities, or any deferred annuities, of whatsoever kind or denomination, (save and except that no deferred annuities shall be granted for any certain limited term of years to commence from and after the death of any nominee.) as are allowed by this act, in the manner and under the limitations and restrictions and regulations herein-after expressed.

II. Provided always, That no annuity or annuities shall be sold or Annuities not granted by the said commissioners upon the life of any nominee under to be granted the provisions of this act, who, on the day when the contract for such on the life of annuity or annuities shall be made, shall be under the age of fifteen any nominee years: Provided also, That it shall be lawful for the said commissioners under 15 years or the comptroller general or assistant comptroller acting under the

under the provisions of this act, in such cases where there shall be, in the opinion of the said commissioners, or of the said comptroller gene-

ral or assistant comptroller, sufficient grounds for refusing or declining

No. I. 10 G. 4, c. 24. said commissioners, to decline or refuse to sell and grant any annuity of age;

nor in any other case

where the commissioners, &c. may think fit to decline.

so to do.

Annuities may be purchased by the transfer 100*l*, stock, &c.

or payment of a year, &c.

All bank annuities so transferred, &c. shall be cancelled.

Annuities granted shall grantees, if required.

Purchasers of annuities may appoint nominees, being natives of the united kingdom.

Not to prevent any persons from purchasing annuities on their own lives.

Previously to transfer of stock or payparties shall

III. That it shall and may be lawful for the said commissioners for the reduction of the national debt, and they are hereby authorized and empowered, to accept and receive any amount, not less than one hunof not less than dred pounds, of any bank annuities, or to accept and receive any sum of money or any amount of long annuities, equal in value to not less than one hundred pounds of three per cent. bank annuities, according to the average price of such annuities, to be ascertained in manner herein-after directed, from any person or persons desirous of purchasing any annuity or annuities for lives or years of whatsoever kind, under the regulations of this act, at and according to such rates as shall be specified in any table or tables which shall be from time to time approved by the lords commissioners of his Majesty's treasury, or any three or more of them; and it shall also be lawful for the said commissioners for the not less than 51. reduction of the national debt to accept and receive from any person or persons any sum of money by the year, at such time or times in each and every year as the said commissioners shall appoint, amounting to five pounds or upwards, in money, for the purpose of enabling the person or persons making such payment or transfer to purchase any of the before-mentioned deferred annuities for lives, under the provisions of this act, according to such regulations as the said commissioners for the reduction of the national debt shall direct and approve; and all bank annuities and long annuities which shall be so transferred, and also all bank annuities which shall be purchased with any sums of money so paid, shall from time to time be carried to the account of the said commissioners for the reduction of the national debt, and shall then be cancelled, and all interest or dividends on such annuities respectively shall cease to be charged upon or to be issued out of the consolidated fund from and after the day upon which any such annuities respectively shall be transferred to and placed in the names of the said commissioners: Provided always, That the several persons by whom any annuities for lives or years of whatsoever kind shall be purchased, be accepted by or to whom any such annuities shall be assigned and transferred under the provisions of this act, shall (if the governor and company of the said bank shall require the same) respectively underwrite his, her, or their acceptance thereof in the books of the said governor and company, by himself or herself, or by some other person or persons duly authorized on his, her, or their behalf.

IV. That whenever any person shall be desirous of purchasing, under the provisions of this act, any life annuity of whatsoever kind, it shall be lawful for the person or persons so desiring to purchase such annuity to name and appoint any other person or persons, being of the age of fifteen years or upwards at the time of such nomination, and being a native or natives of, and most usually resident within, the united kingdom of Great Britain and Ireland, on the continuance of whose life such annuity shall depend: Provided always, That nothing herein contained shall be construed to prevent any person, whether a native or not of the united kindom, or not residing in the united kingdom, from purchasing any life annuity of whatsoever kind under this act, to depend upon the continuance of the life of himself, herself, or themselves, as the nominee or nominees of such annuity.

V. That before any bank annuities or long annuities shall be transferred, or any money shall be paid to the commissioners for the reduction of the national debt, for the purchase of any life annuity under the ment of money, provisions of this act, a declaration in such form as shall from time to time be directed or authorized by the said commissioners, or by the

comptroller general or assistant comptroller acting under the said commissioners, shall be signed by the person or one of the persons desirous 10 G. 4, c. 24. of purchasing such annuity, or by some person on his, her, or their behalf, stating the name of the person by whom or on whose behalf such sign declaraannuity shall be purchased, and the name or names of the person or tion, and propersons on whose life or lives such annuity is required to be granted, duce certifiwith such other particulars as the said commissioners, or the said cates of age of comptroller general or assistant comptroller, shall from time to time nominees of direct, and such declaration shall be delivered to the said comptroller life annuities. general or assistant comptroller or other officer acting under the said commissioners; and there shall also be produced to the said officer a copy of the register of the birth or baptism of the person desiring to purchase such annuity on his own life, or of any and every nominee on whose life or lives any such annuity shall be purchased, certified as true, under the hand of the minister of the parish or place where such register shall be kept, or in the absence of the minister, then a copy of such register, together with a certificate of the truth thereof (wherein such absence shall be specified,) under the hands of the churchwardens or chapelwardens or overseers of such parish or place, or any two of them, and every such certificate, whether of the minister or churchwardens, or chapelwardens or overseers, shall be attested by two or more credible witnesses; and to such certificate there shall also be annexed an affidavit of the said witnesses, or one of them, or their, his, or her solemn affirmation, (in case they or either of them shall be of the persuasion called Quakers,) to be made before any justice of the peace or magistrate in the united kingdom of Great Britain and Ireland, or before the comptroller general or assistant comptroller, or other officer or officers appointed by the said commissioners for that purpose, (and which oath or affirmation such justice or magistrate, or comptroller general, assistant comptroller, or other officer, is hereby authorized and empowered to administer,) that such witness or witnesses did examine and compare the said copy of the register of birth or baptism with the register thereof, and did see such minister, or churchwardens or chapelwardens, or overseers (as the case may be,) sign the said certificate, and that the names of such witnesses are of their own proper handwriting; and to every such certificate shall also be annexed an affidavit or solemn affirmation made by the purchaser of the said annuity, (or by one of the purchasers in case there shall be two or more,) or by some person on his, her, or their behalf, before any justice of the peace or magistrate in the united kingdom of Great Britain and Ireland, or before such comptroller general or assistant comptroller, or other officers of the said commissioners, that the person named and described in the copy or certificate of the register of birth or baptism produced to the said officer is the same person who is appointed to be such nominee.

VI. Provided always, That in all cases where any copy or certificate 1f day of birth of any register, which shall be produced pursuant to this act, shall pur- not named in port to be a copy or certificate of the register of the baptism only, and certificate, age not of the birth of any person, the age of such person shall, for the pur-shall be calcuposes of this act, be calculated from the date of such baptism, and the lated from the amount of the annuity to be purchased on the life of the person named day of baptism. in any such copy or certificate shall be estimated and ascertained in like manner in all respects as if such person had been born on the day expressed in such copy or certificate to be the date of his or her baptism.

VII. Provided also, That in case any person by whom or on whose Proof of age. behalf any annuity shall be purchased on his or her own life shall not be a native of the united kingdom of Great Britain and Ireland, or in case the birth or baptism of any nominee whatever, whether such person shall be his own nominee or not (being a native of the united kingdom,) shall not appear in the register of the parish where such nominee shall have been born or baptized, then and in every such case there shall be produced to the said comptroller general or assistant comptroller, or other officer of the said commissioners (in lieu of such

No. I.

certificates and affidavits as aforesaid, an affidavit or solemn affirmation, 10 G. 4, c. 24. in writing, of the age of such nominee, together with his or her name, surname, addition, and employment or occupation (if any), and usual place of abode, and also the place of his or her birth, and the names of his or her parents or reputed parents, also stating that the person named and described in such affidavit or affirmation is the person on whose life such annuity is intended to be purchased; and such affidavit or affirmation shall be made either by the person or one of the persons by whom or on whose behalf such annuity shall be purchased, or by such nominee, or by some other person having knowledge of the several circumstances before mentioned, in which latter case the said affidavit or affirmation shall also be accompanied by an affidavit or affirmation to be made by the person or one of the persons by whom or on whose behalf such annuity shall be purchased, that the contents of such last-mentioned affidavit are true to the best of his or her knowledge and belief; and such affidavits or affirmations respectively shall and may be taken before any justice of the peace or magistrate in the united kingdom of Great Britain and Ireland, or before the said comptroller general or assistant comptroller, or other officer or officers of the said commissioners; and if any such person or nominee shall be a native of the united kingdom of Great Britain and Ireland, then in such affidavit shall also be stated the cause why a certificate of the copy of the register of his or her birth or baptism cannot be produced.

VIII. Provided also, That in cases where any annuity for a certain limited term of years is intended to be purchased under the provisions an annuity for of this act, it shall be sufficient for that purpose for the purchaser, or years, to sign a for some person on his, her, or their behalf, to sign and produce a declaration ap- declaration to such officer of such his intention, in such form as the proved by the said commissioners, or the said comptroller general or assistant comp-

commissioners. troller, shall from time to time approve.

to officer.

IX. And for ascertaining the average price of bank annuities, ac-Average prices cording to which the amount of any annuities purchased under the proof stocks to be visions of this act is to be regulated, be it enacted, That the cashier or daily made out cashiers of the governor and company of the bank of England shall and and transmitted they are hereby required to cause an account to be made out, on every day on which any bank annuities or long annuities shall have been bought at the bank of England, of the average price at which all or any bank annuities or long annuities shall have been bought on such day; and such account shall be transmitted to the comptroller general or assistant comptroller of the commissioners for the reduction of the national debt, for the purpose of enabling him to ascertain and certify, in manner hereinafter directed, the respective amounts of the life annuities which may be purchased under the provisions of this act; and a copy thereof shall be put up in some conspicuous place of his office, in order that the same may be seen by all persons desirous of ascertaining the price at which stock may be transferred, and the price at which money may be laid out, for the purchase of any annuities under the provisions of this act.

When it shall appear to the comptroller general, that the declaration, &c. has been made conformable to this act, he may grant a certificate thereof;

X. That whenever it shall appear to the said comptroller general or assistant comptroller, or any other officer acting under the said commissioners, that the certificates and affidavits and declaration produced by the proposed purchaser of any annuity as aforesaid are conformable to the directions of this act, such officer shall thereupon ascertain the amount of the annuity for life or lives or years, to be payable in respect of the bank annuities or long annuities proposed to be transferred, or in respect of the sum of money proposed to be paid for the purchase of any such annuities respectively; and the amount of such respective annuities for lives or years shall in all cases be calculated and checked by the actuary and accountant, or other check officer, of the check branch in the office of the said commissioners; and thereupon such comptroiler general or assistant comptroller, or other officer, shall grant his certificate to the party making such purchase, and shall transmit a duplicate thereof to the governor and company of the bank of England;

and upon the production and delivery of the original certificate at the bank, and upon the transfer to the said commissioners of such bank 10 G. 4, c. 24. annuities or long annuities, or upon the payment to them of such sum of money as aforesaid, as the consideration for the purchase of the upon producannuity required to be granted, a certificate or receipt shall be given by tion of which one of the cashiers of the said governor and company of the bank, to the stock may the party on whose behalf such transfer or payment shall be made, and be transferred, such receipt shall be an acquittance or discharge for the bank annuities and the party or long annuities so transferred, or for the money so paid: Provided receive an always, That no certificate for enabling the transfer of any bank acquittance. annuities, or for the payment of money in lieu thereof, for the purchase of any annuities to be granted under the provisions of this act, shall be or continue valid to authorize such payment or transfer being made after the expiration of five days from the date of such certificate.

XI. That it shall and may be lawful for any person desirous of pur- If bargains are chasing any annuity for lives or years, of whatsoever kind, under this made in stock act, to transfer to the commissioners for the reduction of the national bearing more debt any bank annuities carrying a higher rate of interest than three than 3 per pounds per centum per annum; and whenever any such bank an- or in long annuities or any long annuities shall be so transferred, and whenever any nuities, or mosum of money shall be paid for the purchase of any annuity for lives or ney, such years under this act, such bank annuities carrying a higher rate of in-stock, &c. terest than three pounds per centum per annum, and such long an-shall be connuities, and such sum of money respectively, shall be first converted, verted into 3 by the computation of the proper officer acting under the said com- per cents. missioners for the reduction of the national debt, into three pounds per centum consolidated or reduced bank annuities (at the option of the purchaser), according to the average price of three pounds per centum annuities, to be ascertained as directed by this act, and the annuity or annuities to be granted in respect of the consideration of such purchase shall be calculated and ascertained upon the amount of three pounds per centum annuities (excluding the fractional parts of a pound of such last mentioned three pounds per centum annuities, if any), produced by such conversion; and whenever any sum of money shall be so paid, a charge of two shillings and sixpence shall be made upon the purchaser of such annuity for life or years, for every entire one hundred pounds of three pounds per centum annuities produced by the conversion of such money into such three pounds per centum annuities as aforesaid.

XII. That any bank annuities, and any annuities for a certain term Future bank of years, which may at any time after the passing of this act be created annuities, &c. by this act, or by any future act or acts, shall be transferrable and may may be transbe transferred to the commissioners for the reduction of the national ferred for the debt, for the purchase of any annuities of whatsoever kind, under the purposes of this provisions of this act, in like manner in all respects as any bank annuities, or annuities for a certain term of years, existing at the time of the passing of this act, and shall be subject to all the rules, regulations, and provisions in this act contained.

XIII. That in all cases where any sum of money shall be the con- Money for the sideration for any annuity for lives or years, of whatsoever kind, to be purchase of granted under the provisions of this act, such sum of money shall be annuities shall paid by or on behalf of the purchaser or purchasers of such annuity be paid into into the bank of England, under a certificate of the proper officer of the commissioners for the reduction of the national debt; and upon the commissioners production of such certificate, the cashier or cashiers of the said bank for the reduction of the reduction of the said bank for the said bank for the reduction of the said bank for the said shall and he and they is and are hereby required to receive all such tion of the monies, and to place the same to the account of the said commissioners; national debt. and all such monies shall be laid out on behalf of the said commissioners in the purchase of bank annuities, as the said commissioners shall from time to time direct; and all such bank annuities shall from time to time be cancelled as herein-before directed: Provided always,

No. I.

Treasury shall direct the use value of annuities as approved by them.

That all monies paid to the said commissioners for the purchase of life 10 G. 4, c. 24. annuities shall be carried to their account, standing in the books of the said bank, under any acts heretofore in force enabling the said commissioners to grant life annuities; and all monies paid to the said commissioners for the purchase of annuities for terms of years shall be carried to a distinct and separate account in the books of the said bank.

XIV. That for the better carrying this act into execution it shall and may be lawful for the commissioners of his Majesty's treasury, or any of tables of the three or more of them, from time to time, as they shall think fit, to direct the commissioners for the reduction of the national debt to use and adopt such tables as shall, from time to time, be authorized and approved of by the said commissioners of the treasury, or any three or more of them, for ascertaining the values of annuities depending on the continuance of single lives, and on the continuance of two lives and the life of the longest liver of them, and on the joint continuance of two joint lives; and also such tables of the values of deferred annuities on single or joint lives; and also such tables of the values of annuities, for a certain limited term of years, immediate or deferred, as may be granted according to the provisions of this act; and such respective tables shall be valid and effectual for the purposes of this act; and all annuities for lives or years, of whatsoever kind, to be purchased under the provisions of this act, shall be purchased according to the values stated in such tables respectively, so long as the same shall remain in force; and it shall be lawful for the said commissioners of the treasury to alter, revoke, and recal all or any such tables from time to time, and to direct the use and adoption of such other tables in lieu thereof as shall be approved of by the said commissioners of the treasury: Provided always, That the said commissioners for the reduction of the national debt shall, previous to the adoption and using of any such tables respectively, give notice, from time to time, in the London Gazette, in such form and manner as to the said commissioners for the reduction of the national debt shall seem fit and proper, that such tables have been authorized and approved by the said commissioners of the treasury.

Purchasers of life annuities, or annuities for years, shall be entitled to such amount of annuity as shall be specified in such tables.

XV. That in every case where any bank annuities or long annuities shall be transferred, or any sum of money shall be paid as the consideration for the purchase of any annuity for lives or years, of whatsoever kind, under the provisions of this act, the person or persons purchasing any such annuity for lives or years, upon the transfer of such bank annuities or long annuities, or upon the payment of such sum of money to the said commissioners, shall, for every one hundred pounds of such three per centum bank annuities, or for every sum of long annuities, or for every sum of money paid equal to the value of such one hundred pounds of such three per centum annuities, and so in proportion for any greater sum, be entitled to receive, (during the continuance of the single life of the nominee, or during the lives of the two nominees and the life of the longest liver of them, or during the joint continuance of the lives of the two joint nominees, or during the continuance of the single or joint lives in cases of deferred life annuities, or during the term of years, immediate or deferred, for which any annuity shall be granted under this act,) an annuity for a life or lives, or for terms of years, as the case may be, of such annual amount as shall be specified in any such table or tables respectively, as the commissioners of his Majesty's treasury, or any three or more of them, shall from time to time authorize and approve in manner herein-before directed, to be calculated and ascertained according to the age of the nominee or nominees, or the continuance of the term of years respectively, as the case may be, and according to the average price (to be ascertained as is herein-before directed) of three pounds per centum consolidated or reduced bank annuities on the day preceding the day of granting the said certificate to the party purchasing any such annuity for a life or lives, or for a term of years as aforesaid: Provided always, that whenever it shall happen that no sale of any bank annuities shall

have been made, so as to enable such average price to be ascertained on each and every day, in manner herein-before required, then such calcu- 10 G. 4, c. 24. lation shall be made according to the average price on the nearest day preceding the date of the certificate to be granted by such officer.

XVI. That it shall not be lawful for any person to transfer, for the Preventing purchase of any annuity under the provisions of this act, any less sum fractions. than one hundred pounds of any bank annuities, nor any fractional part less than one pound of such bank annuities, except in cases expressly provided for by this act; and that in every case where the cal-

culation of the amount of any annuity, according to the provisions of this act, shall produce a fraction less than sixpence, the fractional part of the said annuity less than sixpence shall be taken from the amount thereof, and shall not be inserted in the certificate to be granted by the officer of the said commissioners for the reduction of the national debt, nor shall be payable at the bank of England.

XVII. That all life annuities of whatsoever kind, which shall be pur- Life annuities chased and granted under the provisions of this act, (whether such life granted under annuities shall commence immediately or not,) shall in their due course, this act shall as the same shall fall due and become payable, be added to and shall be added to form part of the life annuities payable at the bank of England under ities for lives; any act or acts heretofore in force enabling the said commissioners to grant life annuities; and all annuities for terms of years, which shall and annuities be purchased and granted under this act, shall be carried to a separate for years shall account in the books of the governor and company of the bank of be carried to a England, and the books of the commissioners for the reduction of the separate acnational debt, under the title of "Annuities for Terms of Years granted count. by the Commissioners for the Reduction of the National Debt, pursuant to Act of the Tenth of George the Fourth;" and the said annuities for terms of years shall be comprehended in one general account, notwithstanding the said annuities shall continue for various terms of years.

XVIII. That whenever any person shall have purchased any annuity Life annuitants for the life or lives of any nominee or nominees under the provisions of may make furany act heretofore in force, by which the said commissioners were em- ther purchases powered to grant life annuities, or under the provisions of this act, and on lives of such person shall be afterwards desirous of purchasing any further original nomiannuity or annuities on the life or lives of the same nominee or nominees without nees, (whether such life annuities shall have been originally contracted fresh certififor to commence immediately or not,) the original proofs of the age of cates. such nominee or nominees, produced at the time of the purchase of the first annuity, shall be deemed sufficient to authorize the proper officer of the said commissioners, and such officer is hereby required from time to time to grant to the person applying to him for that purpose all or any such certificate or certificates as by this act are directed or required, for the purpose of enabling such persons to transfer any bank annuities or long annuities, or for the payment of any sum of money for the purchase of such further life annuity or annuities, without the production of any fresh certificates or affidavits in regard to the birth or baptism or other particulars respecting such nominee or nominees; and the certificates so to be granted by such officer shall be valid and effectual to enable every such person to transfer any bank annuities or long annuities, or to make payments of any sum of money for the purchase of such further life annuity or annuities, and to entitle every such person to such certificates and receipts from the cashier of the bank of England, in like manner as if the certificate of such officer had been granted upon the production of the original certificates and affidavits.

XIX. And whereas it may tend to facilitate the granting life annuities Any persons under this act, if persons other than those by whom any nominee or may purchase nominees were originally named and appointed were allowed to pur- life annuities chase annuities upon the life or lives of such nominees on life of nowithout new certificates; be it therefore enacted, That it shall and may be lawful for any person or persons to purchase in all cases any of the without fresh aforesaid annuity or annuities, of whatsoever kind, under the provicertificates.

No. I.

sions of this act, upon the life or lives of any one or more nominee or 10 G. 4, c. 24. nominees, either singly or jointly, whose age shall have been certified and verified under the provisions of this act, or of any act heretofore in force as aforesaid, without the production of any new or additional certificate or certificates of the age or ages of such nominee or nominees: Provided always, that in every case an affidavit or solemn affirmation as to the identity of such nominee or nominees shall be made by the purchaser of any such annuity, or by some person on behalf of such purchaser, before such and the like persons as are specified and required in and by this act, in cases wherein copies of the register of the birth or baptism of any nominee or nominees is or are required to be produced under the provisions of this act.

Persons appointed by commissioners shall accept stock transferred by purchasers of annuities.

Annuities purchased under this act and former acts chargeable on consolidated fund.

Amount of annuities from time to time payable shall be certified to the treasury, who shall issue their warrant to the bank for payment thereof out of the consolidated fund.

Time of halfgranted under this act.

XX. That it shall be lawful for any person or persons who shall from time to time be nominated and appointed by the said commissioners for the reduction of the national debt under this act, or who shall have been appointed by them under any act heretofore in force, to accept any transfer of stock made to the said commissioners under the provisions of this act, and such person or persons are hereby authorized and empowered to accept the transfer of any bank annuities or long annuities which shall be transferred to the said commissioners for the purchase of any annuities for life or years of whatsoever kind under the provisions of this act; and all annuities for lives or years of whatsoever kind which shall be purchased under the authority of this act, or which shall have been purchased under any act or acts heretofore in force enabling the said commissioners to grant life annuities, or under an act of the fifty-ninth year of his late Majesty's reign, empowering the said commissioners to grant annuities for lives or years for promoting the beneficial purposes of the fund commonly called the Waterloo subscription, shall be charged and chargeable, and the same are hereby made chargeable upon the consolidated fund of the united kingdom, and shall be paid and payable at the bank of England in manner directed by this act.

XXI. That for the purpose of ascertaining from time to time the amount of annuities for lives or for terms of years, payable under the authority of this act or any acts heretofore in force enabling the commissioners for the reduction of the national debt to grant life annuities, the comptroller general or assistant comptroller acting under the said commissioners shall, within fourteen days next preceding the fifth day of July, the tenth day of October, the fifth day of January, and the fifth day of April in each and every year, (commencing on and from the fifth day of July one thousand eight hundred and twenty-nine,) after deducting all expired and unclaimed annuities for lives or years which shall have previously ceased and determined, certify to the commissioners of his Majesty's treasury the amount of annuities for lives and of annuities for terms of years, the half-yearly payments of which shall from time to time be chargeable upon the said consolidated fund on each of such days respectively; and the said commissioners of the treasury, or any three or more of them, shall thereupon order and direct, by warrant under their hands, the sums specified from time to time in every such certificate to be issued and paid out of the said consolidated fund from time to time to the said governor and company of the bank of England, to be by them placed to the account of the said commissioners for the reduction of the national debt, for the purpose of paying all such annuities respectively.

XXII. That all annuities for lives or years of whatsoever kind, which yearly payment shall be purchased under the provisions of this act, shall be payable at of all annuities the bank of England by two equal half-yearly payments, to be respectively made on the fifth day of January and on the fifth day of July, or on the fifth day of April and the tenth day of October, in each and every year, according to the respective periods, as herein-after mentioned, within which any bank annuities or long annuities shall be transferred, or any money shall be paid for the purchase of any such annuities

No. 1.

for life or years of whatsoever kind respectively; and the first halfyearly payment of every such annuity so purchased shall be made at the 10 G. 4, c. 24. times following, (that is to say,) on the fifth day of January in respect of all purchases completed by the transfer of bank annuities or long annuities, or payment of money, at any time during the quatter ending on the tenth day of October preceding such fifth day of January; on the fifth day of April in respect of all such purchases completed at any time during the quarter ending on the fifth day of January preceding such fifth day of April; on the fifth day of July in respect of all such purchases completed at any time during the quarter ending on the fifth day of April preceding such fifth day of July; and on the tenth day of October in respect of all such purchases completed at any time during the quarter ending on the fifth day of July preceding such tenth day of October; and all future half-yearly payments of every such annuity shall be made with reference to the time of such first half yearly payment: Provided always, that upon the death of any single nominee, or of Quarterly paythe survivor of any two joint nominees in respect of any life annuity, or ment on death upon the death of either of the two joint nominees, in case the annuity of nominee of shall have depended upon the joint continuance of the lives of two life annuities. joint nominees, a sum equal to one fourth part of the annuity depending upon the life of such single or surviving nominee, or such two joint nominees, (over and above all half-yearly arrears thereof respectively,) shall be payable to the person or persons entitled to such annuity, or his, her, or their executors, administrators, or assigns (as the case may be), on the half-yearly day of payment next succeeding the death of such nominee; provided that such last-mentioned payment shall be claimed within two years after the death of such single or surviving nominee, or after the death of either of such two joint nominees, but not otherwise: Provided also, that the fourth part of any expired life Proviso as to annuity payable under the provisions of this act shall not be payable nor deferred anbe paid upon or in respect of any deferred or reversionary life annuity, nuities. unless one half-yearly payment of such deferred life annuity shall have been actually paid or become due at the time of the decease of such nominee.

XXIII. That for the space of fourteen days next after any of the said Bargains for quarterly days for payment of the said annuities respectively, no bar- annuities not to gain or contract shall be made by or on behalf of the said commis- be made within sioners for the reduction of the national debt for the grant or purchase 14 days after of any annuity under this act; any thing herein-before contained to the the quarterly contrary in anywise notwithstanding.

day of pay-

XXIV. And for preventing frauds in the receipt of life annuities, be it further enacted, That before any half-yearly payment of any life Before every annuity shall be receivable at the bank of England, (except in cases half-yearly hereafter specially provided for,) there shall be produced to the proper payment of life officer of the commissioners for the reduction of the national debt, a annuities, cercertificate that the nominee upon whose life such annuity shall depend tificate of life was living upon a day to be specified in such certificate, which day shall be proshall be one of the days on which a half-yearly payment of such an-duced (1). nuity shall have become due, or some day subsequent thereto; and such certificate shall be under the hand of the minister, or in his absence (which shall be expressed in such certificate) under the hands of the churchwardens or chapelwardens or overseers of the parish or place, (or any two of them,) within the united kingdom, wherein such nominee shall be then resident, or under the hand of some justice of the peace or magistrate of the county, riding, city, or town wherein such parish or place shall be situate; and in case any nominee shall at any time after his or her nomination become resident in parts beyond the seas, in any of the dominions of his Majesty, then such certificate as aforesaid shall be under the hands of the governor or person acting

No. I.

as governor of the settlement where such nominee shall be resident: 10 G. 4, c. 24. and in case such nominee shall, after his or her nomination, become resident in any kingdom or state in Europe in amity with his Majesty, or in other kingdom or state or place beyond the seas, then and in every such case such certificate as aforesaid shall be under the hand of the British minister or consul, or governor, or person acting as such, who shall be resident in the city, town, or place where such nominee shall be residing; and if no British minister or consul, or governor, or person acting as such, shall be resident in such city, town, or place, then such certificate as aforesaid shall be under the hand and seal of the chief magistrate of such city, town, or place, or any other magistrate acting at the time as such, or for or in the place of any such chief magistrate: Provided always, that in all cases where an annuity shall depend on the lives of two joint nominees, and the life of the longest liver of them, who shall both be living, it shall be sufficient to produce the certificate of the life of either of the nominees; and that in all cases where any annuity shall depend upon the joint continuance of the lives of two joint nominees, such certificate shall state that both such nominees are then living.

Proviso as to

annuities on

joint lives.

Affidavit of the party producing certifiof nominee.

XXV. That there shall be annexed to every certificate of the life of any nominee, and produced to the proper officer, an affidavit or solemn affirmation made before some justice of the peace or magistrate, or cate of the life before such comptroller general or assistant comptroller, or other officer appointed by and acting under the eaid commissioners, by the person or persons so entitled to such life annuity, or by the person applying to receive such annuity on behalf of the person or persons so entitled, which affidavit or affirmation shall state that the matters and things contained in such certificate are true to the best of the deponent's belief, and that the person described or certified therein is the nominee or one of the nominees, or both the nominees, in case the annuity shall depend upon the joint continuance of two joint nominees, on whose life or lives the annuity whereof such half-yearly payment shall be claimed doth depend; and in case such annuity shall have been granted on the lives of two nominees, and on the life of the longest liver of them, then in such affidavit or affirmation shall also be specified, to the best of the knowledge or belief of the deponent, whether the other of the two nominees whose life shall not be so certified as aforesaid be living or dead, and if living, the usual place of the residence of such nominee, or that such deponent is wholly ignorant whether the other of such two nominees be living or dead, and if living, the usual place of abode of such nominee, as the truth shall require.

On production cates, &c. a payment of annuity.

XXVI. That upon the production to the proper officer of such certiof such certifi- ficate and affidavit as by this act are required, or in case any nominee on whose life, whether singly or jointly with any other nominee and the certificate shall life of the longest liver of them, any annuity shall depend, or where be granted for such annuity shall depend upon the joint continuance of the lives of two joint nominees, then in case both such nominees shall appear personally before such officer, and such officer shall be satisfied of the identity of such nominee or nominees, it shall be lawful for such officer, and he is hereby required, to grant to the person producing such certificates and affidavits, or to the person or persons entitled to the annuity depending upon the life of the nominee or nominees so appearing before such officer, a certificate; which certificate, being produced to and lodged with the proper officer of the said governor and company of the bank of England, shall be sufficient to authorize the receipt, by or on behalf of the party entitled to such annuity, of the half-yearly payment of such annuity then due, and also of all such preceding half-yearly payments of such annuity as may have become due and shall then remain unpaid.

Certificates of

XXVII. That in all cases where upon the death of any single nomideath of nominees, or of the survivor of any two joint hominees, or of either of the two nees to be pro- joint nominees, (in cases where any expired annuity shall have depended

upon the joint continuance of the lives of two joint nominees,) any claim shall be preferred under the provisions of this act for the payment 10 G. 4, c. 24. of a sum equal to one fourth part of the annuity depending upon the life or lives, and expired by the death of such nominee, then and in duced upon either of such cases the person or persons preferring such claim shall claim for payproduce to the proper officer a certificate, specifying the day of the ment of one death or burial of such nominee, together with an affidavit in proof of fourth part of the identity, and stating the day of the death of such nominee, to be expired anrespectively granted and taken by and before such and the like persons as are by this act authorized and empowered to grant certificates and to administer affidavits in proof of the life of any nominee; and upon the production of such certificate and affidavit at any time within thirty days next preceding the fifth day of January, fifth day of April, fifth day of July, or tenth day of October respectively in any year, it shall and may be lawful for such officer, and he is hereby authorized and required, at the next succeeding period of making the half-yearly payment of any life annuity granted under the provisions of this act, or of any act or acts heretofore in force enabling the said commissioners to grant life annuities, (whether such expired annuities shall or shall not have been payable at such half-yearly period,) to grant to the person producing such certificate of death or burial, and such affidavit of identity as aforesaid, a certificate of such production; and upon such last-mentioned certificate being lodged with the proper officer of the governor and company of the bank of England, all half-yearly arrears which shall be and remain due upon any and every such expired annuity, and also the fourth part of every such expired annuity (in case such fourth part shall be claimed within two years after the death of the nominee, according to the provisions of this act,) shall be made and paid to the person or persons entitled thereto.

XXVIII. That it shall be lawful for the proper officer of the said Certificate of commissioners for the reduction of the national debt, and he is hereby burials of authorized, empowered, and required, to receive any extracts or copies Quakers, &c. from the registers of the society of friends commonly called Quakers, or from the registers of any dissenting or Roman Catholic chapel, or other chapel not being parochial, as evidence of the death or burial of any nominee or nominees; provided that such extracts or copies shall be duly certified under the hand of the registrar or person keeping such registers; and that such copy, so certified, shall be accompanied by an affidavit as to the identity of such nominee or nominees, to be made and taken by and before such and the like person and person as is required by this act on the death of any nominee.

XXIX. That whenever it shall happen that two or more annuities Certificates as shall have been purchased upon the life of the same nominee or nomi- to life of nominees, and a certificate in conformity with the directions of this act, in nee shall be proof of such nominee or nominees being living, shall have been pro- applicable to duced to the proper officer by or on the behalf of the person or persons all annuities entitled to any one of such annuities, it shall and may be lawful for the held for his proper officer, upon the production of such affidavit or affidavits or affir-life. mation or affirmations, as to the identity of such nominee as are required by this act, to grant a certificate or certificates for the purpose of enabling any person or persons entitled to any other annuity or annuities payable in respect of the life of such nominee or nominees to receive such annuity or annuities, without requiring the production of any further certificate; and in case of the personal appearance of any nomi- Personal apnee or nominees as herein-before mentioned, the certificate authorizing pearance of the receipt of any annuity shall and may be granted by the said officer, nominees. without requiring any further proof of such nominee being living.

XXX. And for the purpose of enabling further purchases of any Further anannuities to be made by any person to whom any annuity shall have nuities may be been or shall be granted under the provisions of any act heretofore in granted to perforce enabling the said commissioners to grant life annuities, or under sons having the provisions of this act; be it enacted, That it shall be lawful for the purchased any

former annuity

No. I.

commissioners for the reduction of the national debt, and they are 10 G. 4, c. 24 hereby authorized and empowered, to accept the transfer of any three pounds per centum bank annuities to their account in the books of the said governor and company of the bank of England, the amount of which shall not be less than twenty pounds, or to accept and receive any bank annuities carrying a higher rate of interest than three pounds per centum per annum, or any long annuities, or any sum of money equivalent thereto, in lieu of such three pounds per centum bank annuities, to be computed and ascertained according to the average price of three pounds per centum consolidated or reduced bank annuities as herein-before directed, as the consideration for any further life annuity or for any further annuity for term of years authorized by this act, to be valued and ascertained according to the average price of three pounds per centum annuities, and the age of the party nominated at the time of purchasing such further life annuity, in pursuance of the provisions of

Annuity purchased under any act heretofore in fcrce to be considered as one entire annuity with any annuity granted under this act.

XXXI. That whenever any person or persons shall purchase any life annuity under the provisions of this act, who shall stand possessed in the books of the said bank of any annuity depending on the life of the said nominee, under any act or acts heretofore in force enabling the said commissioners to grant life annuities, the life annuity or annuities so purchased under this act shall be added to such former life annuity, and such several life annuities shall be deemed and taken to be, to all intents and purposes, as one entire annuity depending upon the life of such nominee, as though such several annuities had been purchased under the provisions of this act; and all letters of attorney from time to time in force, which shall have been granted for the purpose of receiving such life annuities so purchased under any of the said acts, shall be valid and effectual for the purposes of this act; any thing in any act or acts, or this act, to the contrary thereof in anywise notwithstanding.

Immediate, deferred, or reversionary life annuities to be transferrable entire, without change of nominee.

XXXII. That the right, title, interest, and benefit in and to any life annuity of whatsoever kind, whether such life annuity shall be immediate, deferred, or reversionary, or whether actually in the course of payment at the time of such transfer or not, which may be purchased under the provisions of this act, shall from time to time be transferrable in the books of the governor and company of the bank of England; provided that such annuity be transferred entire, and not in parts or shares, and that the original nominee or nominees of any annuity shall never be varied or changed, notwithstanding any transfer of the right or interest therein.

Annuities for years shall be transferrable.

XXXIII. That the right, title, interest, and benefit in and to any annuities for any term of years, which may be purchased under the provisions of this act, shall from time to time be transferrable, in whole or in part or parts, in the books of the said governor and company of the bank of England, during the continuance of the terms for which such annuities shall be granted.

Forms used by bank of England under former acts may be used under this act.

XXXIV. That the form and words in use in the books of the said governor and company of the bank of England, under any act or acts heretofore in force for enabling the transfer and assignment of any life annuities granted by the said commissioners for the reduction of the national debt, under the provisions of any such act or acts, shall continue and be in force, and shall be used for the transfer and assignment of any life annuities which shall be granted under this act; any thing in any act or acts, or in this act, to the contrary thereof in anywise notwithstanding.

As to the liability of annuities to taxes.

XXXV. That life annuities and annuities for terms of years, purchased under the provisions of this act, shall not be subject or liable to any taxes, charges, or impositions whatever, other than and except such as dividends of bank annuities or long annuities are or may be subject Annuities shall and liable to; and that all such annuities shall be deemed personal estate; and in all cases where the same shall not depend upon the life of the person entitled thereto, shall go to the executors or administra-

be personal estate,

tors of such person, as personal estate, and shall not be descendible to heirs.

No. I. 10 G. 4, c. 24.

XXXVI. Provided always, That whenever it shall happen that any person or persons, having made any one or more yearly payment or 1f annual paypayments for or in respect of the purchase of any deferred or rever-ments are not sionary annuity under this act, or their respective executors, adminis- kept up, antrators, successors, or assigns, shall make default in paying or con-nuity shall be tinuing to make the residue of such annual payments, until the whole forfeited. consideration for any such annuity shall be fully paid according to the agreement for the same, then and in every such case the amount of all annual payments which shall have been made previous to such default shall be forfeited for the benefit of the public, and all right and title to any annuity in respect thereof shall be extinguished.

XXXVII. That every transfer of any right, title, interest, or benefit Transfers of of, in, or to any deferred or reversionary annuity, the consideration of right to dewhich shall be agreed and contracted for by annual payments in money ferred annuities under this act, shall be entered and registered in such books as the com- purchased by missioners for the reduction of the national debt shall order and direct. annual paywhich entry shall be conceived in proper words for that purpose, and ments, to be shall be signed by the parties making such assignment or transfer, or registered. by their attorney or attornies thereto lawfully authorized, in writing under hand and seal, attested by two or more credible witnesses; and that the several persons to whom such transfers shall he made shall (if the commissioners for the reduction of the national debt or the officer acting in their behalf shall require them so to do) respectively underwrite his, her, or their acceptance thereof in such books, and that no other method of assigning and transferring the title to such annuities shall be good or available in law: Provided always, That such annuities Annuities to be shall be transferred entire, and not in parts or shares; and that the transferred original nominee or nominees (in case of life annuities, shall never be entire, and varied or changed, notwithstanding any transfer of any such right, title, without change or interest as aforesaid: Provided also, That all persons possessed of of nominees. any right, title, or interest of or in such annuities may devise the same by will as personal estate, but that no payment shall be received from any devisee until so much of such will as relates to such estate or interest in such annuities be entered in such books.

XXXVIII. That no stamp duty whatever shall be paid or payable Registers, upon or in respect of any copy of any register of the birth or baptism transfers, or burial of any nominee or other person; or upon or in respect of any receipts, &c. certificate, affidavit, or affirmation to be made or taken in pursuance of exempt from this act; or any transfer of bank annuities or long annuities, which stamp duty. shall be made to the said commissioners for the reduction of the national debt under this act; or any certificate or other instrument respecting the payment of money for the purchase of any annuity under this act; or any transfer or acceptance of any such annuity in the books of the governor and company of the bank of England; or any receipt for the payment of any such annuity, or any part thereof, at the bank of England; but that the same shall be respectively free from all stamp duties whatsoever; any thing in any act or acts to the contrary notwithstanding.

XXXIX. That the governor and company of the bank of England Bank shall shall and they are hereby required to cause to be made up to the fifth make up yearly day of January in each and every year, an account of all life annuities account of ungranted by the said commissioners, in pursuance of any act heretofore claimed auin force, and of all annuities for lives or years, of whatsoever kind, nuities. granted in pursuance of this act, which shall have remained unclaimed for the space of three years then next preceding; and all such annuities Unclaimed and so remaining unclaimed, together with the unclaimed half-yearly expired anarrears thereof, and also all annuities for lives or years, of whatsoever nuities to cease kind, which shall have expired, and all half-yearly arrears thereof, shall as a charge cease to be charged upon and shall not be issued or issuable out of the upon consolisaid consolidated fund, from and after the day upon which any such dated fund;

No. I. judice the claim of parties.

annuities for lives or years shall have remained so unclaimed or shall 10 G. 4, c. 24. have expired: Provided always, That nothing in this act contained shall extend or be construed to extend to defeat or prejudice the rights of but not to pre- any person entitled to any such annuity for lives or years to claim the half-yearly arrears and future payments thereof: Provided also, That in respect of any life annuities such claim shall be supported by the production of the proper certificates and affidavits or affirmations in proof of the life of the nominee or nominees upon whose life or lives such life annuity depended, or upon the personal appearance of such nominee or nominees, as required by this act; and in every such case it shall and may be lawful for the said commissioners to reinstate the said annuities for lives or years so claimed, and to charge the same from time to time upon the said consolidated fund, and also all arrears thereof; and the said governor and company are hereby required, out of any sums whatever which shall have heen paid to them, and carried in their books to the account of the commissioners for the reduction of the national debt, to pay the said annuities, and all arrears thereof accordingly.

Penalty on nee;

forfeiture of the consideraannuity;

and 5001.

Penalty on forging registransfers, &c.

XL. That if any certificate or affidavit or affirmation shall be produced false certificate to the officer of the commissioners for the reduction of the national debt, of age of nomi- which shall contain any untrue statement of the age of any person proposed or appointed to be a nominee, with intent to obtain an annuity on the continuance of the life of any person under the age of fifteen years, or to obtain any higher rate or amount of annuity during the life of any nominee or nominees than would or might be allowed under the provisions of this act, according to the true age of such nominee or nominees, then and in every such case all bank annuities or long annuities which tion money and may have been transferred, and all money which may have been paid for or on account of the purchase of such annuity, shall be forfeited to the said commissioners, and all right and title to any annuity which would or might otherwise have been payable in respect thereof shall treble the pay- cease and determine; and the person or persons by whom or on whose ment received, behalf such bank annuities or long annuities shall have been transferred, or such money shall have been paid, shall forfeit to his Majesty, his heirs and successors, treble the amount of any and every sum which may have been received by or on behalf of such person, on account or in respect of any such annuity, and also the further sum of five hundred

XLI. That if any person or persons shall forge, counterfeit, or alter, or shall cause or procure to be forged, counterfeited, or altered, or shall ter, certificate, knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any register or registers of the birth or baptism or death or Felony punish- burial of any person or persons to be appointed a nominee or nominees able by death. under the provisions of this act, or any copy or certificate of any such register, or the name or names of any witness or witnesses to any such certificate, or any affidavit or affirmation required to be taken for any of the purposes of this act, or any certificate of any justice of the peace or magistrate, or of any officer acting under the said commissioners for the reduction of the national debt, of any such affidavit or affirmation having been taken before him, or any certificate of any governor or person acting as such, or minister or consul, or chief magistrate of any province, town, or place, or other person authorized by this act to grant any certificate of the life or death of any nominee; or shall forge, counterfeit, or alter, or shall cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any certificate or certificates of any officer of the commissioners for the reduction of the national debt, or of any cashier or clerk of the bank of England, or the name or names of any person or persons in or to any transfer of any bank annuities or long annuities, or in or to any certificate or other instrument for the payment of money for the purchase of any annuity under the provisions of this act, or in or to any transfer or acceptance of any such annuity in the books of the

No. I.

governor and company of the bank of England, or in or to any receipt or discharge for any such annuity, or in or to any receipt or discharge 10 G. 4, c. 24. for any payment or payments due or to become due thereon, or in or to any letter of attorney or other authority or instrument to authorize or purporting to authorize the transfer or acceptance of any bank annuities or long annuities, or any life annuity, or any annuity for years of whatsoever kind, under the provisions of this act, or authorizing or purporting to authorise the receipt of any life annuity, or any annuity for years of whatsoever kind, granted under this act, or any payment or payments due or to become due thereon; or if any person or persons shall wilfully, falsely, and deceitfully personate any true and real nominee or nominees, or shall wilfully utter or deliver or produce, to any person or persons acting under the authority of this act, any such forged register or copy of register, or any such forged certificate, affidavit, or affirmation, knowing the same to be forged, counterfeited, or altered, with intent to defraud his Majesty, his heirs and successors, or with intent to defraud any person or persons whomsoever; then and in every such case all and every persons and person so offending, and being lawfully convicted thereof, shall be adjudged guilty of felony, and shall suffer death (1).

XLII. That if any person or persons shall, for his, her, or their own Penalty on reuse, or the use of any other person or persons, receive any one or more ceiving anpayment or payments (otherwise than as authorized by this act), upon nuity after or in respect of any annuity granted under the provisions of this act, death of nomiafter the death of any single or surviving nominee on the continuance nee, treble the of whose life such annuity was payable, or after the death of either amount, and nominee, in case the annuity shall have been granted upon the joint continuance of the lives of two joint nominees, and after and beyond the time on which such annuity ought wholly to cease in consequence of the death of such nominee, by virtue of this act, knowing such nominee to be dead, and contrary to the true intent and meaning of this act; every person so offending shall forfeit to his Majesty, his heirs and successors, treble the amount of all money so received, and also the further sum of five hundred pounds.

XLIII. That all pecuniary penalties and forfeitures imposed by this Recovery and act shall be recoverable, (if incurred in England,) in the name of his Ma-application of jesty's attorney general, on the part of his Majesty, by information in penalties. the court of exchequer at Westminster; or (if incurred in Ireland) in the name of his Majesty's attorney general, in the court of exchequer at Dublin; or (if incurred in Scotland) in the name of his Majesty's advocate general, in the court of exchequer in Scotland; and such penalty and forfeiture shall go and belong to and shall become part of the consolidated fund: Provided always, that it shall be lawful for the commis- Reward to sioners for the reduction of the national debt to cause such reward as informers. they shall think fit, not exceeding one moiety of any such penalty or forfeiture so recovered, after deducting all charges and expences incurred in recovering the same, to be paid to any person or persons who shall appear to them to be entitled thereto, as informer or informers, in respect of such penalty or forfeiture so recovered.

XLIV. That if any person, in any affidavit to be taken before any Periury. justice of the peace or magistrate, or before any officer acting under the said commissioners, under the provisions of this act, shall wilfully or corruptly swear or affirm any matter or thing which shall be false or untrue, every such person so offending, and being thereof duly convicted, shall be and is hereby declared to be subject and liable to such pains and penalties as by any laws now in force any persons convicted

of wilful and corrupt perjury are subject and liable to.

⁽¹⁾ The punishment of death for forgery, except for forging or uttering wills, or powers of attorney for the transfer of stock, or receipt of dividends in the Bank, South Sea House, or Bank of Ireland, is now abolished. See post, Part V, Class 12, Furgery.

No. I.

Certificates, the form directed by the commissioners, &c.

Evidence not strictly conformable may be admitted in certain cases;

and errors in contracts, &c. amended.

No fees to be taken.

Appointment. of clerks and officers.

For defraying expences attending the execution of this act.

Quorum of

Account to be before parliament of annuities transferred and of money paid for annuities.

Limitation of actions.

XLV. That all certificates or other instruments whatever required for .10 G. 4, c. 24. carrying this act into execution shall be in such form and under such regulations as the commissioners for the reduction of the national debt, or the comptroller general or assistant comptroller acting under the said &c. shall be in commissioners, shall from time to time direct and approve: Provided always, that in all cases whatever relating to the purchase or receipt of any annuity for lives or years, of whatsoever kind, under the provisions of this act, it shall be lawful for the said commissioners, or for the comptroller general or assistant comptroller acting under the said commissioners, and they are hereby severally authorized and empowered, where any evidence shall be produced by any person for the purchase or receipt of any such annuity, not strictly conformable to the provisions of this act, to admit such evidence for the purposes of this act respecting the same as shall or may appear to the said commissioners, or the said comptroller general or assistant comptroller, to be satisfactory; and also to correct, rectify, and amend any contract for any such annuity, or certificate or other instrument, in cases wherein any mistake or accidental error shall or may have been made in the execution of this act; any thing in this act to the contrary thereof in anywise notwithstanding.

XLVI. That no fee whatever shall be received or taken by any officer acting under the commissioners for the reduction of the national debt, for granting any certificate, or for any act, matter, or thing to be done in

pursuance of this act.

XLVII. That it shall be lawful for the commissioners for the reduction of the national debt, and they are hereby authorized and empowered, from time to time to appoint such officers, clerks, and other persons as may be necessary for carrying this act into execution, and as may be approved by the commissioners of his Majesty's treasury.

XLVIII. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury, or any three or more of them, for the time being, to order and direct to be issued and paid, out of the fund upon which the establishment of the commissioners for the reduction of the national debt is chargeable, any sum or sums of money for the payment of salaries to officers and clerks acting in the execution of this act, and for discharging such incidental expences as shall necessarily attend the execution thereof, in such manner as the said lord high treasurer, or commissioners of the treasury, or any three or more of them, shall from time to time think fit and reasonable; and also to settle and appoint such allowances as shall be proper for the pains and labour of the cashier or cashiers, or other officer or officers of the governor and company of the bank of England, in the execution of this act, which last-mentioned allowances shall be for the use and benefit of the said governor and company, and at their disposal only.

XLIX. That it shall be lawful for any three or more of the commiscommissioners. sioners for the reduction of the national debt for the time being, to execute and do all matters and things which the said commissioners are

required or empowered to do for the execution of this act.

L. That there shall be prepared, and annually laid before both houses annually laid of parliament, on or before the twenty-fifth day of March in every year, if parliament shall be then sitting, and if parliament shall not be then sitting, then within fourteen days after the commencement of the then next session of parliament, an account made up by the commissioners for the reduction of the national debt, to the fifth day of January preceding of the gross amount of all bank annuities and long annuities, and any other annuities for terms of years, transferred, and of all sums of money paid to the said commissioners, and the gross amount of annuities for lives and for terms of years which shall have been granted for the same, under the provisions of this act, within the year ending on the fifth day of January as aforesaid.

LI. That if any action or suit shall be brought against any person or persons for any thing done in pursuance or by virtue of this act, such action or suit shall be commenced within three calendar months next after the fact committed, and not afterwards; and the defendant or defendants in every such action or suit may plead the general issue, and 10 G. 4, c. 24. give this act and the special matters in evidence at any trial to be had thereupon; and if the jury shall find for the defendant or defendants in General issue. any such action or suit, or if the plaintiff or plaintiffs shall be non-suited, or discontinue his, her, or their action or suit after the defendant or defendants shall have appeared, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant Treble costs. or defendants shall have treble costs, and have the like remedy for the same as any defendant hath in other cases to recover costs by law.

[No. II.] 2 & 3 W. IV. c. 59.—An Act to transfer the Management of certain Annuities on Lives from the Receipt of His Majesty's Exchequer to the Management of the Commissioners for the Reduction of the National Debt; and to amend an Act for enabling the said Commissioners to grant Life Annuities and Annuities for Terms of Years.

[4th July 1832.]

WHEREAS certain annuities on lives have been created at various

periods by sundry acts of parliament; (that is to say), by an act passed in the eighteenth year of the reign of his Majesty king George 18 G. 2, c. 9. the second, intituled An Act for granting to his Majesty several additional Duties upon all Wines imported into Great Britain, and for raising a certain Sum of Money by Annuities and a Lottery, in manner therein mentioned, to be charged on the said additional Duties; and also by an act passed in the nineteenth year of his said Majesty, intituled An Act 19 G. 2, c. 12. for granting to His Majesty several Rates and Duties upon Glass and upon Spirituous Liquors, and for raising a certain Sum of Money by Annuities and a Lottery, to be charged on the said Rates and Duties; and for obviating some Doubts about making out Orders at the Exchequer for the Monies advanced upon the Credit of the Salt Duties granted and continued to His Majesty by an Act of the last Session of Parliament; also by an act passed in the thirtieth year of the reign of his said Majesty intituled 30 G. 2, c. 19. An Act for granting to His Majesty several Rates and Duties upon Indentures, Leases, Bonds, and other Deeds, and upon Newspapers, Advertisements, and Almanacks, and upon Licences for retailing Wine, and upon Coals exported to Foreign Parts; and for applying, from a certain Time, the Sums of Money arising from the Surplus of the Duties on Licences for retailing Spirituous Liquors; and for raising the Sum of Three Millions by Annuities to be charged on the said Rates, Duties, and Sums of Money: and for making perpetual an Act made in the Second Year of the Reign of His present Majesty, intituled 'An Act for the better Regulation of Attornies and Solicitors;' and for enlarging the Time for filing Affidavits of the Execution of Contracts of Clerks to Attornies and Solicitors, and also the Time for Payment of the Duties omitted to be paid for the Indentures and Contracts of Clerks and Apprentices; and also by an act passed in the fifth year of the reign of his Majesty king George the third, intituled An 5 G. 3, c. 23. Act for granting Annuities, to be attended with a Lottery, to satisfy and discharge certain Navy, Victualling, and Transport Bills, and for charging the Payment of such Annuities on the Sinking Fund; and also by an act passed in the eighteenth year of the reign of his said Majesty king 18 G. 3. c. 22. George the third, intituled An Act for raising a certain Sum of Money by way of Annuities, and for establishing a Lottery; and also by an act passed in the nineteenth year of the reign of his said Majesty king 19 G. 3, c. 18. George the third, intituled An Act for raising a certain Sum of Money by way of Annuities, and for establishing a Lottery; and also by an act passed in the twenty-ninth year of the reign of his said Majesty king 29 G. 3, c. 41. George the third, intituled An Act for raising a certain Sum of Money by

c. 59.

So much of recited acts as relate to the management and payment of annuities for lives at the exchequer, repealed.

Annuities created by recited acts transferred to commissioners national debt.

ment of an-1832, to be delivered to commissioners by clerk of the pells.

Tellers of exchequer to pay dividends in their hands as out cash on 5th July 1832, into bank of England.

Certain parts of 30 G. 3. c. 45, and 10 G. 4, c. 24, repealed.

way of Annuities, to be attended with the Benefit of Survivorship in 2 & 3 W. 4, Classes; and also by an act passed in the thirtieth year of the reign of his said Majesty king George the third, intituled An Act for converting certain Annuities to be attended with the Benefit of Survivorship in Classes, 30 G. 3, c. 45. established by an Act of the last Session of Parliament, into certain Annuities for an absolute Term of Years, and for enabling the Commissioners of the Treasury to nominate Lives for the Shares so converted; which said several annuities on lives were by the said recited acts placed under the management and made payable at the receipt of his Majesty's exchequer: And whereas it is expedient that the said annuities should be transferred to the management of the commissioners for the reduction of the national debt, and be regulated by one general system of payment, in common with all other life annuities due to the public creditor; and it is therefore expedient to repeal so much of the said recited acts as relate to the management and payment of the said annuities at the receipt of the said exchequer: Be it therefore enacted, &c., That so much of the said recited acts as relates to the management, assignment, and payment of the said annuities on lives at the receipt of his Majesty's exchequer, shall be and the same is hereby repealed.

II. That after the passing of this act, or as soon after as the necessary arrangements can be made, of which the said commissioners shall give notice in the London Gazette, the said several annuities on lives which were created by the said several recited acts shall be placed management of under the management of the commissioners for the reduction of the national debt, and shall be payable and paid at the bank of England,

for reduction of under the regulations herein-after directed.

III. That all orders made out for the payment of any annuity under Orders for pay- the provisions of the said first recited acts or either of them, which on the fifth day of July one thousand eight hundred and thirty-two shall be nuities remain- remaining in the office of the clerk of the pells of his Majesty's receipt ing on 5th July of exchequer, shall be delivered over by him to the said commissioners for the reduction of the national debt, or to the comptroller general or assistant comptroller acting under the said commissioners, upon his receiving directions to that effect from the commissioners of his Majesty's treasury; and all dividends or annuities created by any of the said first-recited acts which shall have been directed by the auditor of his Majesty's said exchequer to be paid by the tellers thereof, but which shall not have been paid by them on the said fifth day of July one thousand eight hundred and thirty-two, and which shall be then remaining in their hands under the denomination of out cash, shall be paid over by the said tellers to the governor and company of the bank of England, upon their receiving directions so to do from the commissioners of his Majesty's said treasury; and the cashiers of the said bank are hereby required to receive the same, and to carry such monies to the account of the said commissioners for the reduction of the national debt.

> IV. And whereas an act was passed in the tenth year of the reign of his late Majesty king George the fourth, intituled An Act to enable the Commissioners for the Reduction of the National Debt to grant Life Annnities and Annuities for Terms of Years, which said life annuities were by the said act made payable and transferrable at the bank of England: And whereas it is expedient to repeal certain provisions of the said lastrecited act, and of the said recited act of the thirtieth year of the reign of his Majesty king George the third, and to substitute other provisions in lieu thereof; be it therefore enacted, That so much of the said recited act of the thirtieth year of the reign of his Majesty king George the third as relates to transmitting lists by commissioners of treasury to parishes for returns certifying the lives of nominees, and of the said recited act of the tenth year last aforesaid, as relates to granting certificates of the existence of nominees, and to the making certain affidavits and solemn affirmations by persons desirous of purchasing such an

nuities, in cases where proof of the age and identity of nominees has been before produced to the said commissioners, certified and verified 2 & 3 W. 4, according to the provisions of the said act, and as relates to affidavits and solemn affirmations in cases where the nominee shall not appear personally before the officers of the said commissioners, to enable such persons to receive the half-yearly payments from time to time of every such life annuity, and also for receiving the one fourth part of any expired life annuity which shall be claimed under the provisions of the said act, and as relates to the paying and transferring such annuities at the bank of England, shall be and the same are hereby repealed.

No. II. c. 59.

V. That in all cases in which any affidavit or solemn affirmation was A declaration required by any of the said recited acts aforesaid, the person or persons to be made in who would, under the said recited acts, be required to take or make such lieu of the affiaffidavit or solemn affirmation, shall make and subscribe a declaration davit or affirmin lieu thereof, in such form and words and under such regulations as ation hitherto may be directed by the said commissioners, or by the comptroller required by general or assistant comptroller acting under the said commissioners; chasing and and if any such declaration shall be untrue in any portionler the and if any such declaration shall be untrue in any particular, the receiving life person making the same shall, over and above every other penalty to annuities. which such person may become subject, forfeit the sum of one hundred pounds.

VI. Provided always, That if after the passing of this act any affidavit Such affidavits or solemn affirmation shall be produced for the purpose of receiving produced after any life annuity under the provisions of the said recited acts, such passing of this affidavits and solemn affirmations, notwithstanding the repeal thereof act to be valid. by this act, shall be deemed valid and effectual for the purpose of receiving such life annuities, any thing in this act to the contrary thereof

in anywise notwithstanding.

VII. Provided nevertheless, That the said commissioners, or comp- Affidavit may troller general or assistant comptroller acting under the said commis- be required in sioners, may in any case require any such person or persons to make certain cases. affidavit or solemn affirmation in confirmation of any such declaration, and every such person shall, and he, she, or they is and are hereby thereupon required to make such affidavit or solemn affirmation before such comptroller general or assistant comptroller, or other officer ap. pointed for that purpose by the said commissioners, who are hereby respectively authorized to administer the same, or before any justice of the peace or magistrate, any thing in this act to the contrary thereof notwithstanding.

VIII. That upon proof of the existence of the nominee of any life Upon proof of annuity created by any of the said first-recited acts, or by the said re-nominees being cited act of the tenth year of the reign of his late Majesty, or of any life living, or of annuity which may hereafter be created by the said last-recited act, deaths, wareither by the personal appearance of such nominee before the officer of issued, upon the said commissioners, or, in case of the nonappearance of such which the bank nominee, by the production of a certificate proving the existence of such to pay. nominee as is required by the said recited acts, together with such declaration aforesaid, or other evidence to the satisfaction of the said commissioners, or of the officer or officers acting under the said commis sioners, the said officer shall thereupon issue to the person or persons entitled to any annuity depending upon the life of such nominee a warrant or warrants in such form as shall be approved by the said commissioners, or by the comptroller general or assistant comptroller acting under the said commissioners, addressed to the cashiers of the governor and company of the bank of England, for the half-yearly payment or payments of the annuity which shall be then depending upon the life of such nominee; or upon proof of the death of the said nominee, then a warrant shall be issued by the said officer for the payment of one fourth part of the expired annuity which depended upon the life of such nominee, which, under the provisions of the said act of the tenth year of the reign of king George the fourth, is allowed to be claimed by the person or persons entitled thereto, provided such fourth part shall be

No. II. 2 & 3 W. 4, c. 59.

Holders of annuities under first-recited acts to have like annuities the commissioners; and all life annuities to be transferable in such books entire for the life of the original nominee.

claimed by the person or persons entitled thereto within the period prescribed by the said recited act, together with any half-yearly payment of the said annuity which may be outstanding at the time of his or her death; and upon the said warrant or warrants being produced and lodged at the said bank, the said cashier or cashiers shall pay the sum expressed therein to the person or persons producing the same.

IX. That all persons who at the time of the passing of this act shall be holders of and stand possessed of any exchequer order or orders for or in respect of any annuities on lives created by any of the said firstrecited acts, heretofore payable at the receipt of his Majesty's exchequer, or who at the time of the passing of this act shall stand possessed, in in the books of the books of the said governor and company of the bank of England, of any annuity depending upon the life of the said nominee, under any act or acts heretofore in force enabling the said commissioners for the reduction of the national debt to grant life annuities, shall be deemed and taken to all intents and purposes to stand possessed of such several and the like annuities in the books of the said commissioners, and shall be entitled to all the several rights, titles, interests, and benefits in and to any life annuity, of whatsoever kind, whether such life annuity shall be immediate or deferred, or whether actually in the course of payment at the time of the passing of this act, or not, according to the several provisions of the said recited acts or of any of them; and such several life annuities, and also all life annuities which may hereafter be created in pursuance of the said recited act of the tenth year of his late Majesty, shall from time to time be transferable in the books of the said commissioners for the reduction of the national debt, or, so far as relates to any exchequer life annuities or orders, shall be assignable and shall be paid to and shall be transferable and assignable by the persons respectively entitled to such annuities, or by some person duly authorized to receive or transfer the same, according to such form and under such regulations as shall be approved of by the said commissioners for the reduction of the national debt, or by the said comptroller general or assistant comptroller acting under the said commissioners: Provided always, that such annuity shall be transferred entire, and not in parts or shares, and that the original nominee of any annuity shall never be varied or changed, notwithstanding such transfer.

Commissioners orders to be made out and of orders lost or destroyed, without authority from treasury, as required by

X. That it shall be lawful for the said commissioners for the reducmay direct new tion of the national debt to authorize the comptroller general, or his assistant, to make out and sign any new order, in such form as the said commissioners shall direct, as a substitute for and in lieu of any order signed, in lieu of a like description which may have been lost or destroyed or become defaced or obliterated, without any such authority from the commissioners of his Majesty's treasury, or certificate from any judge of the court of exchequer, as is specified and required in the said recited act of the twenty-ninth year of the reign of his Majesty king George the third, or in any case whatever relating to any of the said recited acts, 29 G. 3, c. 41, upon proof being given to the satisfaction of the said commissioners, by the oath or solemn affirmation to be made and taken before the said comptroller general or assistant comptroller, or before any justice of the peace or magistrate, by the persons applying for such new order, or any other person, of such loss or destruction, or production of the order in lieu of which a new order is required; and all such new orders, so signed, shall be deemed good and valid to all intents and purposes as if the same had been made under the provisions of the said recited acts. or either of them, any thing in the said recited acts to the contrary notwithstanding.

Accounts of annuities for terms of years unclaimed for

XI. And whereas it is enacted by the said recited act of the tenth year of his late Majesty, that the governor and company of the bank of England shall cause to be made up, to the fifth day of January in each year, an account of all annuities for terms of years granted by the said ten years, to be commissioners for the reduction of the national debt, in pursuance of the made up quar- said act, which shall have remained unclaimed for the space of three

years then next preceding, which annuities so remaining unclaimed, and all half-yearly arrears thereof, shall cease to be charged upon and 2 & 3 W. 4, shall not be issued or issuable out of the said consolidated fund from and after the day upon which any such annuities shall have remained so unclaimed: And whereas it is expedient that all such unclaimed terly at the annuities for terms of years should be regulated by the same rules as bank; and the are directed by an act passed in the fifty-sixth year of the reign of his annuities to be Majesty king George the third, intituled An Act to authorize the trans- transferred to ferring Stock upon which Dividends shall remain unclaimed for the Space the commisof at least Ten Years at the Bank of England, and also all Lottery Prizes sioners, and or Benefits, and Balances of Sums issued for paying the Principals of the like regula-Stocks or Annuities, which shall not have been demanded for the same tions as other Periods, to the Commissioners for the Reduction of the National Debt; stocks are be it enacted, That the governor and company of the bank of England subject by shall cause to be made up quarterly an account of all annuities for 56 G. 3, c. 60. terms of years already granted or which may hereafter be granted by the said commissioners under the provisions of the said recited act of the tenth year of his late Majesty, which shall have remained unclaimed for the space of ten years then next preceding such quarters respectively; and all such unclaimed annuities and all arrears thereof shall be transferred to the commissioners for reduction of the national debt, and shall be subject to the like restrictions and regulations as all other capital stocks and annuities are now subject by the said recited act of the fifty-sixth year of his said Majesty; any thing in any act to the contrary thereof notwithstanding.

XII. That for the purpose of ascertaining from time to time the Commissioners amount of annuities for lives payable under the authority of the said of national debt several first-recited acts, the comptroller general or assistant comptroller to certify to the acting under the said commissioners shall, within fourteen days next treasury before preceding the fifth day of January, the fifth day of April, the fifth day each quarter of July, and the tenth day of October in each and every year, (com-day the amount of July, and the tenth day of October in each and every year, (commencing on the tenth day of October one thousand eight hundred and payable under thirty-two,) certify to the commissioners of his Majesty's treasury the the recited acts amount of annuities for lives (first deducting therefrom the amount of the 18th, chargeable on account of the several lives nominated by the commis- 19th, & 30th sioners of the treasury under the provisions of the said recited act of of G. 2, and the thirtieth year of king George the third) the half-yearly payments of the 5th, 18th, which shall from time to time be chargeable, and the same are hereby & 29th of G. 3. made chargeable, upon the said consolidated fund, on each of such days respectively; and the said commissioners of the treasury, or any three or more of them, shall thereupon order and direct, by warrant under their hands, the sums specified from time to time in every such certificate to be issued and paid out of the consolidated fund from time to time to the governor and company of the bank of England, to be by them placed to the account of the commissioners for the reduction of the national debt, for the purpose of paying all such annuities respectively created by the said first-recited acts of the eighteenth, nineteenth, and thirtieth years of king George the second, and by the fifth, eighteenth, and twenty-ninth years of king George the third.

XIII. That all letters of attorney from time to time in force, which Letters of atshall have been granted for the purpose of transferring or selling or re-torney to conceiving such life estate so purchased under any of the said recited acts, tinue valid for shall be valid and effectual for the purposes of this act, and receiving receiving anthe same under the provisions of this act; any thing in any act or acts, nuities under or this act, to the contrary notwithstanding.

XIV. That the commissioners for the reduction of the national debt Appointment are hereby empowered from time to time to appoint such officers, clerks, of officers, &c. and other persons as may be necessary for carrying this act into execution, and as may be approved of by the commissioners of his Majesty's treasury.

XV. And whereas it is expedient to give legal remedies to persons be instituted entitled to any annuities transferred under the provisions of this act against the from the books of the governor and company of the bank of England

Suit, &c. may

No. II. 3 & 4 W. 4, c. 59.

comptroller or assistant comptroller in all cases in which the bank would have been liable if the annuity had remained in their books.

Declaration, &c. not to be stamped.

Powers of

treasury and auditor of ex-

chequer, as to annuities under first-recited acts, to cease on 5th July; and those of the bank under 10 G. 4, &c. to expire on Powers of auditor of exchequer and governor and company of bank to be exercised by the

commissioners.

to the books of the commissioners for the reduction of the national debt; be it therefore enacted, That in all cases in which any person entitled to or interested in any annuity transferable in the books of the governor and company of the bank of England, or in any annuity recorded in the books of the said auditor of his Majesty's exchequer, might have instituted any action, suit, or legal proceeding in any court of law or equity, for or in respect of any act, matter, or thing done by the said governor and company, or by the said auditor, or their officers, or any other person or persons, in relation to any such annuity, or any forged or other illegal transfer thereof, such action, suit, or legal proceeding may be instituted and carried on against the comptroller general of the said commissioners or the assistant comptroller general of the said commissioners for the time being, and damages recovered or other remedy given in any court of law or equity against such comptroller or assistant as might have been recovered or given against the governor and company of the bank of England in case the said annuity had remained transferable in the books of the governor and company of the bank of England, or against the said auditor in case the said annuity stood recorded in the books of the said auditor; and all damages and sums of money and costs recovered in any such suit or proceeding shall be paid by the order of the commissioners of the treasury, or any three or more of them, for the time being, (which order the said commissioners are hereby required to give,) out of any of the aids and supplies voted by parliament for the public service: Provided always, That the body, or goods, chattels, lands, or tenements of such comptroller or assistant comptroller, shall not, by reason of his being defendant, under the provisions of this act, in any such suit, action, or party in any such proceeding, be liable to be arrested, seized, detained, or taken in execution; and no such suit shall abate on the death or removal from office of the comptroller or assistant comptroller against whom the said suit was had, but shall continue in full force against his successor.

XVI. That no declaration required by this act to be made to the commissioners for the reduction of the national debt, nor any warrant, certificate, affidavit, or affirmation, or other instrument, (save and except all letters of attorney which shall or may be granted from time to time for the purposes of this act,) made out by or under the authority of the said commissioners, shall be liable to the payment of any stamp duty.

XVII. That all the powers and authorities of the commissioners of the treasury and of the auditor of the exchequer, so far as the same are applicable to the management and payment, or to any other matter or thing relating to any life annuities created by the said first-recited acts, shall cease and determine on and from and after the fifth day of July one thousand eight hundred and thirty-two; and all the powers and authorities of the governor and company of the bank of England, so far as the same are applicable to the said recited act of the tenth year of his late Majesty king George the fourth, or to any other act enabling the commissioners of the national debt to grant life annuities (except as in this act provided), shall cease and determine on and from and after the 30th July 1832. thirtieth day of June one thousand eight hundred and thirty-two.

XVIII. That all the powers and authorities which are by the said recited acts, or any or either of them, respectively given to the commissioners of the treasury, or to the auditor of the exchequer, or to the governor and company of the bank of England, or to their respective officers, or any officer or servant acting under them respectively, in relation to any annuity by this act placed under the management of the commissioners for the reduction of the national debt, or to any matter or thing required by any of the said recited acts to be done by the said commissioners of the treasury, or by the said auditor, or by the said governor and company, shall and may be used and exercised and put in force for all the purposes of this act, and for the more effectual carrying the provisions thereof into execution, by the said commissioners for the reduction of the national debt, or by any person acting under their authority, as fully to all intents and purposes, so far as the same are not altered by this act, as if the same were severally re-enacted in this act,

and expressly given to the said commissioners.

XIX. That if any person or persons shall forge, counterfeit, or alter, or shall cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully act or assist in the forging, counterfeiting, or Penalty on altering, any declaration, warrant, order, or other instrument, or any forging regisaffidavit or affirmation required to be made by this act, or by the com-ter, certificate, missioners for the reduction of the national debt, under any of the pro-transfers, &c. visions of this act, or under any authority given to them for that pur- Felony punishpose; or shall forge, counterfeit, or alter, or shall cause or procure to be able by death forged, counterfeited, or altered, or shall knowingly or wilfully act or (1). assist in the forging, counterfeiting, or altering, any certificate or order of any officer of the commissioners for the reduction of the national debt, or the name or names of any person or persons in or to any transfer of any annuity, or in or to any certificate, order, warrant, or other instrument for the payment of money for the purchase of any annuity under the provisions of this act, or in or to any transfer or acceptance of any such annuity in the books of the commissioners for the reduction of the national debt, or in or to any receipt or discharge for any such annuity, or in or to any receipt or discharge for any payment or payments due or to become due thereon, or in or to any letter of attorney or other authority or instrument to authorize or purporting to authorize the transfer or acceptance of any annuities or any life annuity of whatsoever kind, or authorizing or purporting to authorize the receipt of any life annuity of whatsoever kind granted under any of the said recited acts or this act, or any payment or payments due or to become due thereon; or if any person or persons shall wilfully, falsely, and deceitfully personate any true and real nominee or nominees, or shall wilfully utter or deliver or produce to any person or persons acting under the authority of this act any forged register or copy of register of any birth, baptism, or marriage, or any forged declaration, affidavit, or affirmation, knowing the same to be forged, counterfeited, or altered, with intent to defraud his Majesty, his heirs and successors, or with intent to defraud any person or persons whomsoever; then and in every such case all and every person and persons so offending, and being lawfully convicted thereof, shall be adjudged guilty of felony, and suffer death.

XX. That the lord high treasurer, or the commissioners of his Treasury may Majesty's treasury, or any three or more of them, for the time being, order issues of may order and direct to be issued and paid, out of the fund upon which money for paythe establishment of the commissioners for the reduction of the na- ment of salational debt is chargeable, any sum or sums of money for the payment ries. of salaries to officers and clerks acting in the execution of this act, and for discharging such incidental expences as shall necessarily attend the execution thereof, in such manner as the said lord high treasurer, or commissioners of the treasury, or any three or more of them, shall from time to time think fit and reasonable, and also for the payment of all such damages, costs, charges, and expences as shall be recovered against or payable under the provisions of this act by the comptroller general or assistant comptroller general of the said commissioners, which last-mentioned damages, costs, charges, and expences shall be payable and paid out of any aids or supplies granted by parliament,

and applicable to any public service.

No. II. 2 & 3 W. 4, c. 59.

⁽¹⁾ But now see post, Part V, Class 12, Forgery.

PART III.

CLASS VII.

GAMING.

[The 4 G. 4, c. 60, was the last act authorizing a public lottery, since which time they have discontinued; and the provisions of the 10 & 11 W. 3, c. 17, whereby all lotteries were declared public nuisances, are now in full force.

By an act of the 1 & 2 W. 4, for the improvement of Glasgow, authority was inadvertently given to raise money for that purpose by way of lottery; but all future lotteries under that statute were prohibited by the 4 & 5 W. 4, c. 37.

In the recent act 5 & 6 W. 4, c. 41, amending the law relating to securities arising out of gaming transactions, see ante, Usury, p. 321.

See also, post, Part VI., Class 20.]

PART III.

CLASS VIII.

STOCK JOBBING.

[There has been no statute on this subject since 7 G. 2, c. 8, made perpetual by the 10 Geo. 2, c. 8.]

PART III.

CLASS IX.

SALE OF OFFICES.

[No I.] 6 G. 4, c. 82.—An Act to abolish the Sale of Offices in the Court of King's Bench in England, to make Provision for the Lord Chief Justice of the said Court, and to grant an additional Annuity to the said Lord Chief [5th July 1825.] Justice on Resignation of his Office.

WHEREAS the several offices of chief clerk, clerk of the treasury, and custos brevium, and filazer, exigenter, and clerk of the outlawries of the court of king's bench in England, are in the gift of the lord chief justice of the same court, and deemed to be saleable by him, as and when the same from time to time become vacant: And whereas the several offices of clerk of the rules on the plea side, clerk of the papers on the plea side, clerk of the declarations, clerk of the common bails, estreats and posteas, and clerk of the dockets of the same court, are in the gift of the said chief clerk, and deemed to be saleable by him; and the several offices of clerks of the inner and outer treasury, clerks of nisi prius in London and other cities, and on the several circuits, and bagbearer on the plea side of the same court, are in the gift of the said custos brevium, and deemed to be saleable by him: And whereas the said several offices are held for the respective lives of the persons now holding the same (or for the life of the survivor of two persons where the office is now vested in two persons), and the emoluments thereof are derived entirely from the fees payable by the suitors of the same court; and some thereof are and for many years past have been executed by deputy; and the emoluments of some others thereof, which are executed in person, are greater than the nature and duties thereof, considered apart from other circumstances relating thereto, would require: And whereas it is expedient to abolish the sale of all such of the said offices as are now saleable, without prejudice however to the rights of any of the persons now holding the same, or having the right of appointment thereto, except only the lord chief justice of the said court; whereby a more uniform and more constant provision may be made for maintaining the honour and dignity of the office of lord chief justice of the same court, and a fund may be hereafter raised, which may be applied towards the payment of the salaries of the chief justice and other judges of the same court, in ease of the public revenue; be it therefore enacted, &c., That the said offices of chief clerk, Certain offices clerk of the treasury, and custos brevium, and filazer, exigenter, and after they beclerk of the outlawries, shall from and after the passing of this act, and come vacant to the said several offices herein-before mentioned to be in the gift of the be no longer said chief clerk, shall from and after the time when the said office of saleable, and chief clerk shall become vacant, and the said several offices herein-future appointbefore mentioned to be in the gift of the said custos brevium, shall ments to be from and after the time when the said office of custos brevium shall be-regulated by come vacant, be disposed of; and all appointments to the said respec- this act. tive offices, as they may respectively become vacant, shall be made

No. I. 6 G. 4, c. 82. Offices to be executed in person, and not by deputy. unless for some reasonable cause.

Appointments rint.

Remedy in case of misbehaviour.

How and for what cause a appointed.

according to the directions of this act, and not otherwise; and all and every the persons to be so appointed to the said several offices, shall continually execute the same in person, and not by deputy, unless for some reasonable cause to be allowed, as herein-after mentioned; and every such officer and his deputy, to be appointed according to the directions of this act, shall be deemed and taken to be a public accountable officer, to all intents and purposes, and shall severally account for the fees and emoluments of his office, according to the directions of this act.

II. That all appointments to the said several offices to be made by to be made by virtue of this act shall be made by the lord chief justice of the said the chief jus- court for the time being, by warrant under his hand and seal, without tice, quam diu any fee, gratuity, or reward, to be directly or indirectly paid to or received for the same; and every such appointment shall be made, and shall be in such warrant expressed to be made, during the good behaviour of the person appointed, and for so long time only as the person appointed shall execute the same in person: Provided always, that no such office shall be vacated by reason of the officer's not executing his office in person, if he shall execute the same by some deputy to be appointed by virtue of this act; nor in cases of occasional illness, or other like necessary cause of absence, not continuing more than two months at any one time.

III. That if any person to be appointed by virtue of this act shall demean himself in any manner contrary to the true intent and meaning hereof, or otherwise misbehave himself, it shall be lawful for the said court to hear and decide upon such misbehaviour, and also to hear and determine all complaints that may be made against such person in a summary way, and by rule of the same court, to order compensation to be made to any person injured by such misbehaviour, or to fine such offender, or to make void his appointment, or punish the offender by all or any the ways aforesaid, as to such court in its discretion shall seem fit.

IV. Provided always, That in case any officer to be appointed by virtue of this act shall, by ill-health or other infirmity, become incapdeputy may be able of discharging the duties of his said office, or shall from any other reasonable cause, to be allowed by the said lord chief justice, be desirous of being relieved from the discharge of the duties thereof, either permanently or for a certain time only, it shall and may be lawful for the said chief justice to appoint some fit and proper person to act as the deputy of such officer; the cause of such appointment being always distinctly mentioned and specified in the warrant of such ap-

The rest of the act has been omitted as not bearing immediately on the subject of this Class.

[No. II.] 6 G. 4, c. 83.—An Act to abolish the Sale of Offices in the Court of Common Pleas in England, to make Provision for the Lord Chief Justice of the said Court, and to grant an additional Annuity to the said Lord Chief Justice on Resignation of his Office. [5th July 1825.]

WHEREAS the several offices of chief and third prothonotaries, clerk of the king's silver, clerk of the jurata, clerk of the essoigns, clerk of the warrants, enrolments and estreats, exigenter, clerk of the supersedeas, filazers for all the counties in England, and clerk of the errors in the exchequer chamber, are appointed by the lord chief justice of the common pleas, and are saleable by him, as and when the same from time to time become vacant: And whereas the offices of second protho-

notary and clerk of the juries are appointed by the said lord chief justice, on the nomination of the custos brevium, for which last-mentioned 6 G. 4, c. 83. appointment the said lord chief justice has been deemed entitled to, and has always received, whenever such appointments have been made, certain fees: And whereas each of the three prothonotaries of the said court has the appointment of one secondary: And whereas the said several offices are held for the respective lives of the persons now holding the same, and the emoluments thereof are derived entirely from the fees payable by the suitors of the same court; and some of such offices are and for many years past have been executed by deputy; and the emoluments of some others thereof which are executed in person, are greater than the nature and duties thereof, considered apart from other circumstances relating thereto, would require: And whereas it is expedient to abolish the sale of all such of the said offices as are now saleable, whereby a more equal provision may be made for maintaining the honour and dignity of the office of the lord chief justice of the same court, and a fund may be hereafter raised which may be applied towards the payment of the salaries of the chief justice and other judges of the same court, in ease of the public revenue: And whereas the duties of the first and third prothonotary might be well discharged by one person, and the duties of secondary to the first prothonotary and secondary to the third prothonotary might also be discharged by one person, and by thus reducing the number of officers, the fund which might be hereafter raised for the benefit of the public may be considerably increased: Be it therefore enacted, &c., That the said offices of chief and third Certain offices prothonotaries, clerk of the king's silver, clerk of the jurata, clerk of to be no longer the essoigns, clerk of the warrants, enrolments and estreats, exigenter, saleable; and clerk of the supersedeas, filazers for all the counties in England, and as they become clerk of the errors in the exchequer chamber, shall be disposed of, and vacant, future all appointments to the said respective offices, as they may respectively appointments become vacant, shall be made according to the directions of this act, to be regulated and not otherwise; and all and every the persons to be so appointed to by this act. and not otherwise; and all and every the persons to be so appointed to the said several offices, shall continually execute the same in person, Offices to be and not by deputy, unless for some reasonable cause to be allowed, as executed in herein-after mentioned; and every such officer and his deputy, to be person, and appointed according to the directions of this act, shall be deemed and not by deputy, taken to be a public accountable officer, to all intents and purposes, and unless for reashall severally account for the fees and emoluments of his office, accord-sonable cause. ing to the directions of this act.

II. That all appointments to the several offices to be made by virtue Appointments of this act shall be made by the lord chief justice of the said court for to be made by the time being, by warrant under his hand and seal, without any fee, the chief jusgratuity, or reward, to be directly or indirectly paid to or received for tice, quam diu the same by the lord chief justice or any judge of the said court; and se bene gesseevery such appointment, except the appointment of the filacers, shall be rint. made, and shall be in such warrant expressed to be made, during the good behaviour of the person appointed, and for so long time only as the person appointed shall execute the same in person: Provided always, that no such office shall be vacated by reason of the officer's not executing his office in person, if he shall execute the same by some deputy to be appointed by virtue of this act, nor in cases of occasional illness, nor other like necessary cause of absence, not continuing more than two months at any one time.

III. That if any person to be appointed by virtue of this act shall de-Remedy in mean himself in any manner contrary to the true intent and meaning case of mishereof, or otherwise misbehave himself, it shall be lawful for the said behaviour. court to hear and decide upon such misbehaviour, and also to hear and determine all complaints that may be made against such person, in a summary way, and by rule of the same court to order compensation to be made to any person injured by such misbehaviour; or to fine such offender, or make void his appointment, or punish the offender by all or

No. II.

No. II. any of the ways aforesaid, as to such court in its discretion shall seem 6 G. 4, c. 83. fit.

How and for what cause a appointed.

IV. Provided always, That in case any officer to be appointed by virtue of this act shall, by ill-health or other infirmity, become incapable of discharging the duties of his said office, or shall for any other reasondeputy may be able cause, to be allowed by the said lord chief justice, be desirous of being relieved from the discharge of the duties thereof, either permanently or for a certain time only, it shall and may be lawful for the said lord chief justice to appoint some fit and proper person to act as a deputy of such officer; the cause of such appointment being always distinctly mentioned and specified in the warrant of such appointment.

The rest of the act is omitted, as not being connected with the sale of

offices.]

PART III.

CLASS XI.

TRANSFER OF STOCK.

[No. I.] 11 G. IV. c. 13.—An Act for transferring certain Annuities of Four Pounds per centum per annum, into Annuities of Three Pounds and Ten Shillings or Five Pounds per centum per annum. [3rd May 1830.]

[No. II.] 3 & 4 W. IV. c. 31.—An Act for transferring certain Annuities of Four Pounds per centum per annum, into Annuities of Three Pounds and Ten Shillings per centum per annum; and for providing for paying off the Persons who may dissent to such Transfer.

[25th July 1834.]

[For the transfer of stock vested in trustees; see ante, Part II, Class I.

See also a recent statute relating to the transfer of stock; ante, Part III, Class VI.]

[No. III.] 3 & 4 W. IV. c. 24.—An Act to amend an Act of the Tenth Year of his late Majesty, for regulating the Reduction of the National Debt. [9th July 1833.]

WHEREAS an act was passed in the tenth year of the reign of king George the fourth, intituled An Act to amend the several Acts for 10 G. 4, c. 27, regulating the Reduction of the National Debt; and it was in and by the 6.3. said act, amongst other things, enacted, that the one-fourth part of the sum which from time to time should appear by every such annual account respectively to be the actual surplus revenue of the year immediately preceding beyond the expenditure of the united kingdom should be charged and the same was in and by the said act made chargeable upon the consolidated fund of the united kingdom, and was directed to be issued and paid, in and for the quarter of the year then next ensuing the quarter of the year within which such annual account respectively was in and by the said act directed to be made up, either into the bank of England or into the bank of Ireland, to the account of the commissioners for the reduction of the national debt, as the said commissioners should direct, to be by them applied towards the redemption of the national debt of the united kingdom, in such proportions, and at such time and times in each and every quarter in every future year, as the said commissioners for the reduction of the national debt should require, according to the provisions and directions of any act or acts then in force respecting sums issued from the exchequer towards the reduction of the said national debt: And whereas in and by the said act it was also enacted that the said commissioners should from time to time apply all

No. III. 3 & 4 W. 4. c. 24.

The commissioners for the reduction of the national debt empowered to apply the monies of the sinking fund to the reversion of perpetual redeemable annuities: exchange for for limited terms.

Annuities for term of years granted by virtue of this act to be chargeable upon the consulidated fund.

10 G. 4. c. 24.

2 & 3 W. 4. c. 59.

such respective annual sums so placed to their account by virtue of the said act, either in the whole or in part, in the purchase of such redeemable public annuities, or annuities for any term or terms of years, or in the purchase of exchequer bills, or in the paying off exchequer bills, or in the advancing of such annual sums upon the credit of any exchequer bills therein-before mentioned as the said commissioners should from time to time judge most expedient: And whereas it is expedient to extend the powers and provisions of the said recited act, and to enable the said commissioners to purchase from time to time, with the said monies or with any part thereof which shall be so issued to them from time to time, under the provisions of the said act, within any quarter in this present year, or in any future year after the passing of this act, the reversion of any of the existing perpetual redeemable annuities, or of any of the perpetual redeemable annuities which may be hereafter created, and which may at any time be existing after the passing of this act, and constituting the public funded debt of the united kingdom; be it therefore enacted, &c., That from and after the passing of this act it shall and may be lawful for the said commissioners for the reduction of the national debt (and the said commissioners are hereby authorized and empowered), out of any of the said monies which shall be issued to them towards the reduction of the national debt, by virtue of the said recited act, or of any other act or acts now in force or which may hereafter be passed relating to the fund commonly called "The Sinking Fund," to apply such monies or any part thereof, if they shall think fit, at such purchase of the time and times and under such regulations as the said commissioners shall think proper to adopt for that purpose, to the purchase of the reversion of any of the present existing perpetual redeemable annuities, or the reversion of any perpetual redeemable annuities which may at any time exist after the passing of this act, and constituting the public and to grant in funded debt of the united kingdom, and to grant to any person or persons, bodies politic or corporate, in exchange for such perpetual annuisuch, annuities ties payable at the bank of England as shall or may be transferred to them under the provisions of this act, an annuity or annuities, to continue for such limited term of years certain, and upon such terms and conditions, as shall and may be agreed upon between the said commissioners and the parties contracting with the said commissioners.

> II. That all annuities for term of years granted by the said commissioners by virtue of this act shall be charged and the same are hereby made chargeable upon the consolidated fund of the said united kingdom. and the said annuities shall be deemed and taken to be annuities for terms of years granted by the said commissioners within the meaning and intent of the act passed in the tenth year of the reign of king George the fourth, intituled An Act to enable the Commissioners for the Reduction of the National Debt to grant Life Annuities, and Annuities for Terms of Years, and all the clauses, conditions, provisions, directions, regulations, and periods of payment contained in the said last-recited act relating to immediate annuities granted or to be granted by the said commissioners for certain terms of years, and in a certain act made and passed in the second and third years of the reign of king William the fourth, intituled An Act to transfer the Management of certain Annuities on Lives from the Receipt of His Majesty's Exchequer to the Management of the Commissioners for the Reduction of the National Debt, and to amend an Act for enabling the said Commissioners to grant Life Annuities and Annuities for Terms of Years, shall be deemed and taken to apply to the annuities tor terms of years which shall at any time be granted by the said commissioners under and by virtue of this act, as fully and effectually, to all intents and purposes (except as altered and varied by virtue of this act, as if the said clauses, conditions, provisions, directions, regulations, and periods of payment were severally repeated and re-enacted in this

retual an-3 trapsto com-

III. That all the perpetual annuities which shall at any time after the passing of this act be transferred to the said commissioners under the

No. III.

c. 24.

provisions of this act shall be forthwith cancelled in the books of the governor and company of the bank of England; and the said perpetual 3 & 4 W. 4, annuities shall cease to be charged upon or to be issued out of the said consolidated fund from and after the day upon which any such perpetual annuities shall be transferred to and placed in the names of the missioners for said commissioners in the books of the said bank.

the reduction of the national debt to be cancelled.

IV. That the annuities for terms of years granted by the said com- Annuities for missioners under the provisions of this act, or already granted or to be terms of years granted under the said last-recited act or of any future act or acts by created by this which any annuities for terms of years certain shall be created, shall act and by and may be transferred to and from the books of the governor and com- 10 G. 4, c. 24, pany of the bank of England to the books of the governor and com- may be transpany of the bank of Ireland, and vice versa, for the purpose of having ferred to and corresponding sums in the like annuities for terms of years written into from England the books of the said respective banks, in like manner and under the and Ireland. same regulations as any other annuities for terms of years or capital stock are permitted to be so transferred under and by virtue of an act passed in the fifth year of the reign of king George the fourth, intituled An Act to permit the mutual Transfer of Capital in certain 5 G. 4, c. 53. Public Stocks or Funds transerrable at the banks of England and Ireland respectively.

[For the 4 & 5 W. 4, c. 22, relating to the apportionment of an-

nuities, see post, Part IV., Class 19.

PART III.

CLASS XII.

RESTITUTION OF STOLEN PROPERTY.

The 21 H. 8, c. 11. (see Evans' Statutes, vol. ii. p. 342) is now repealed; and by the 7 & 8 G. 4, c. 29, s. 57, the court on conviction of the offenders, may award writs of restitution of stolen property, or order restitution thereof in a summary way. See the clause, Evan's Statutes, vol. vi. p. 49, x.

Long previous to the above statute, which allows the court to make a summary order, it was usual for the judges to direct immediate restitution to prosecutors of their goods without obliging them to issue writs of restitution, which seem to have fallen into disuse soon after the

passing of the 21 H. 8, c. 11.

That statute only extended to a felonious and not to a fraudulent taking of goods. See 5 Term Reports, 175, where it was held under the 21 H. 8. c. 11. That if the owner of goods lost them by a fraud, and not by a felony, and afterwards convicted the offender, he was not entitled to restitution; or to retain them against a person (as a pawnbroker) who had fairly acquired a new right of property in the goods.

It has been recently held that the owner of stolen cattle who prosecutes the thief to conviction may recover their value in trover from a person who purchased them of the thief by a bond fide sale, but not in market overt, and sold them again in market overt before such conviction, notice of the felony having been given to him whilst the cattle were in his possession. Peer v. Humphrey, 1 New Term Rep. K. B. 28.]

PART III.

CLASS XIII.

EXECUTORS AND ADMINISTRATORS.

[No. I.] 1 W. IV. c. 40.—An Act for making better Provision for the Disposal of the undisposed of Residues of [16th July 1830.] the Effects of Testators.

TATHEREAS testators by their wills frequently appoint executors, without making any express disposition of the residue of their personal estate: And whereas executors so appointed become by law entitled to the whole residue of such personal estate; and courts of equity have so far followed the law as to hold such executors to be entitled to retain such residue for their own use, unless it appears to have been their testator's intention to exclude them from the beneficial interest therein, in which case they are held to be trustees for the person or persons (if any) who would be entitled to such estate under the statute of distributions, if the testator has died intestate: And whereas it is After 1st Sept. desirable that the law should be extended in that respect; be it there-1830 executors fore enacted, &c., That when any person shall die, after the first day of deemed to be September next after the passing of this act, having by his or her will, or any codicil or codicils thereto, appointed any person or persons to be his or her executor or executors, such executor or executors shall be deemed by courts of equity to be a trustee or trustees for the person or persons (if any) who would be entitled to the estate under the statute of distributions, in respect of any residue not expressly disposed of, unless it shall appear by the will, or any codicil thereto, the person or persons so appointed executor or executors was or were intended to take such residue beneficially.

trustees for persons entitled to any residue under the statute of distributions, unless otherwise directed by will.

Not to affect cutors where to the residue.

Not to extend to Scotland.

II. Provided also, That nothing herein contained shall affect or rights of exe- prejudice any right to which any executor, if this act had not been passed, would have been entitled, in cases where there is not any there is not any person who would be entitled to the testator's estate under the person entitled statute of distributions, in respect of any residue not expressly disposed of.

> III. Provided always, That nothing herein contained shall extend to that part of the united kingdom called Scotland.

> [No. II.] 3 & 4 W. IV. c. 42.—An Act for the further amendment of the Law, and the better advancement of [14th August 1833.] Justice.

Executors may bring actions for injuries to the real estates of the deceased

II. And whereas there is no remedy provided by law for injuries to the real estate of any person deceased, committed in his lifetime, nor for certain things done by a person deceased in his lifetime to another in respect of his property, real or personal; for remedy thereof, be it enacted, That an action of trespass, or trespass on the case, as the case may be, may be maintained by the executors or administrators of any. person deceased for any injury to the real estate of such person, committed in his lifetime, for which an action might have been maintained by such person, so as such injury shall have been committed within

Class XIII.] Executors and Administrators.

six calendar months before the death of such deceased person, and provided such action shall be brought within one year after the death of 3 & 4 W. 4, such person; and the damages, when recovered, shall be part of the personal estate of such person; and further, that an action of trespass, or trespass on the case, as the case may be, may be maintained against and actions the executors or administrators of any person deceased for any thing may be brought committed by him in his lifetime to another in respect of his property, real or personal, so as such injury shall have been committed within six calendar months before such person's death, and so as such action perty, real or shall be brought within six calendar months after such executors or personal by administrators shall have taken upon themselves the administration of their testator. the estate and effects of such person; and the damages to be recovered in such action shall be payable in like order of administration as the simple contract debts of such person.

XIV. That an action of debt on simple contract shall be maintainable Simple contract in any court of common law against any executor or administrator.

XXXVII. That it shall be lawful for the executors or administrators Executors of of any lessor or landlord to distrain upon the lands demised for any term lessor may or at will for the arrearages of rent due to such lessor or landlord in his distrain for lifetime, in like manner as such lessor or landlord might have done in arrears in his his lifetime.

For the clause of the above act, making executors when plaintiffs liable to costs, see post, Part IV., Class XI. Costs.

No. II. c. 42. against executors for an

PART III.

CLASS XIV.

SALES.

[No. I.] 11 G. IV. c. 14.—An Act for removing the Sale of Hay and Straw from the Haymarket, and for establishing Markets for the Sale of Hay, Straw, and other Articles, in York Square, Clarence Gardens, and Cumberland Market, in the Parish of Saint Pancras, in the County of Middlesex. [3rd May 1830.]

[No. II.] 2 & 3 W. IV. c. 20.—An Act to provide for the Sale, Manufacture, and Consumption of Tobacco grown in Ireland before the First Day of January 1832. [24th March 1832.]

[No. III.] 3 & 4 W. IV. c. 68.—An Act to amend the Laws relating to the sale of Wine, Spirits, Beer and Cider by retail in Ireland. [28th August 1833.]

[No. IV.] 4 & 5 W. IV. c. 20.—An Act to explain and amend an Act passed in the Thirty-third Year of the Reign of His late Majesty King George the Second, to regulate the Conveyance and Sale of Fish at First Hand.

[16th June 1834.]

WHEREAS by an act made and passed in the thirty-third year of the reign of his late Majesty king George the second, chapter twenty-33 G. 2, c. 27. seven, intituled An Act to repeal so much of an Act passed in the twentyninth year of his then present Majesty's reign, concerning a free Market for Fish at Westminster, as requires Fishermen to enter their Fishing Vessels at the Office of the Searcher of the Customs at Gravesend; and to regulate the Sale of Fish at the First Hand in the Fish Markets in London and Westminster; and to prevent Salesmen of Fish buying Fish to sell again on their own Account; and to allow Bret and Turbot, Brill and Pearl, although under the respective Dimensions mentioned in a former Act, to be imported and sold: and to punish Persons who shall take or sell any Spawn, Brood, or Fry of Fish, unsizeable Fish, or Fish out of Season, or Smelts under the size of Five Inches, and for other Purposes; certain provisions were made for regulating the sale of fish at first hand in the fish markets of London and Westminster; and it is by the said act, amongst other things, enacted, that no live salmon, salmon trout, turbot, large fresh cod, half fresh cod, haddock, scate, fresh ling, soles, or whitings shall at any time after the arrival thereof at the Nore, as therein men-

tioned, be unloaded or delivered out of any fishing ship, sloop, smack, or other fishing vessel or vessels, unless by retail, into any other vessel 4 & 5 W. 4, or boat after her arrival at the Nore, but into such vessel or vessels, boat or boats, as shall be employed to carry the fish directly to the market of Billingsgate or Westminster: And whereas doubts have arisen whether the words of the said act may not operate to prevent the bringing of fish to any market of London or Westminster which was not in existence or use as a public market at the time of the passing of the said act, although the object of the legislature was to secure a supply of fresh fish to the cities of London and Westminster, and to prevent the forestalling of the same: And whereas it is expedient to remove such doubts, and to facilitate the conveyance of fresh fish to the legal Nothing in markets of the metropolis: Be it therefore declared and enacted, &c., recited act to That nothing in the said recited act contained shall extend or be con- prevent the strued to extend to prevent any person from unloading or discharging several sorts of from any fishing ship, sloop, smack, or other fishing vessel or vessels fish herein any salmon, salmon trout, turbot, large fresh cod, half fresh cod, had-mentioned from dock, scate, fresh ling, soles, whitings, or other fish which may arrive charged from at the Nore, or from putting the same into any other vessel or vessels, any fishing boat or boats, for the purpose of bringing the same for sale by first vessel for the hand at any fish market or markets legally established within the cities purpose of of London and Westminster, but that every person shall be at liberty being sent to to unload or discharge such fish, and to put the same into other boars any legal marfor the purpose aforesaid, without being subject or liable to any penalty ket in London or punishment for so doing, any thing in the said recited act, or in any or Westminother act, to the contrary notwithstanding.

No. IV. c. 20.

[No. V.] 4 & 5 W. IV. c. 21.—An Act for amending certain Provisions of an Act of the Thirty-sixth of George the Third, for regulating the buying and selling of Hay [16th June 1834.] and Straw.

WHEREAS by an act passed in the thirty-sixth year of the reign of his late Majesty king George the third, intituled An Act to regulate 36 G. 3, c. 88. the buying and selling of Hay and Straw, and for repealing so much of Two Acts, made in the Second Year of the reign of King William and Queen Mary, and in the Thirty-first Year of the reign of King George the Second, as relate to the buying and selling of Hay and Straw within the Limits therein mentioned, it is amongst other things enacted. That the markets for sale of hay and straw within the cities and limits aforesaid shall end at three of the clock in the afternoon of every market day between Lady Day and Michaelmas, and at two of the clock in the afternoon of every market day between Michaelmas and Lady Day, and that notices thereof shall be given by the clerk or toll gatherer, or his deputy, in the several markets or places for the sale of hay and straw within the cities and limits aforesaid, by ringing, on the usual market days, a large hand bell round each respective market or place for the sale of hay or straw, one hour before the expiration of the times above mentioned, and again at the expiration of the hours above mentioned, on pain of forfeiting for every such offence a sum of money not exceeding ten shillings nor less than five shillings; and every person who shall sell any hay or straw in any market within the cities or limits aforesaid after the hours aforesaid shall forfeit for every bundle or truss of hay so sold the sum of sixpence, and for every bundle or truss of straw so sold the sum of three-pence; and it is also by the same act further enacted, That if any person having the care or direction of any waggon, wain, or cart used for the purpose of bringing hay or straw shall suffer the same to remain in any market or place for the sale of hay and straw within the cities and limits aforesaid, on the usual market days from Lady Day to

Recited provisions of repealed as to certain markets.

No. V. Michaelmas after five of the clock in the afternoon, and from Michael-4 & 5 W. 4, mas to Lady Day after three of the clock in the afternoon, in any year, every person so offending shall forfeit for every such waggon, wain, or cart so left as aforesaid a sum of money not exceeding twenty shillings nor less than five shillings: And whereas the said recited provisions were well calculated to prevent obstructions and inconvenience to the public in markets held for the sale of hay and straw in open or public streets or thoroughfares, but the same are unnecessary, and may become vexatious and oppressive, in other markets, and ought therefore to be partially repealed; be it therefore enacted, &c., That from and after the passing of this act the several provisions of the said act of the thirty-sixth year of the reign of king George the third, chapter eighty-36 G. 3, c. 88, eight, which are herein-before recited, shall be and the same are hereby repealed so far as regards any market for the sale of hay, straw, and clover through which there does not exist by law any public right of way for carts and carriages; and that upon any complaint made or information laid for the recovery of penalties upon breach of any of the said recited provisions of the said act it shall be incumbent upon the party suing for such penalty to shew by evidence that there does exist such public right of way for carts and carriages through the market in which the offence shall be charged to have been committed.

In the acts relating to the sale of beer and cider, see Part VI.,

Class 1, Alehouses.

PART III.

CLASS XV.

SAVINGS BANKS.

[No. I.] 3 W. IV. c. 14.—An Act to enable Depositors in Savings Banks, and others, to purchase Government Annuities through the Medium of Savings Banks; and to amend an Act of the Ninth Year of his late Majesty to consolidate and amend the Laws relating to Savings Banks. [10th June 1833.]

WHEREAS an act was passed in the ninth year of the reign of his late Majesty king George the fourth, intituled An Act to consolidate 9 G. 4, c. 92. and amend the Laws relating to Savings Banks, and it is expedient to alter and amend the same, and also to enable depositors in savings banks, and others, to lay out their funds in the purchase of immediate or deferred life annuities, as well as immediate or deferred annuities for a certain term of years, and that provisions should be made for carrying the said measures into effect as herein-after expressed; be it therefore enacted, &c., That from and after the twentieth day of May in the year Trustees of of our Lord one thousand eight hundred and thirty-three, or as soon savings banks after as the commissioners for the reduction of the national debt shall may receive think fit, of which due notice shall be given in the London Gazette, it money from shall and may be lawful for any two trustees or managers of a savings depositors, &c. bank legally established to receive from any depositor in the said savings for purchase of bank, or other person whom the said trustees or managers shall think annuities. entitled to become a depositor in a savings bank, any sum or sums of money for the purchase of immediate or deferred life annuities, or of immediate or deferred annuities for a certain limited term of years; such annuities to be contracted for by any two of the said trustees or Annuities to be managers on behalf of the commissioners for the reduction of the na- contracted for tional debt, and to be charged and chargeable, and the said annuities by two trustees are hereby made chargeable, upon the consolidated fund of the united on behalf of kindom, under the limitations, restrictions, and regulations hereafter commissioners expressed; and all sums of money from time to time paid to the said for reduction of trustees or managers on account of the purchase of every such annuity national debt. shall be kept separate, distinct, and apart from the other funds of the trustees on acinstitution, and be from time to time, when received, paid into the bank count of purof England to the account of the commissioners for the reduction of the chase of annational debt; and the cashiers of the bank of England are hereby nuity to be kept required to receive all such monies, and to place the same to the account distinct, and of the said commissioners, to be entitled "The Fund for purchasing paid to account Life Annuities, or Annuities for Terms of Years, (as the case may be) of commison the Account of Savings Banks and Parochial Societies;" and the sioners. said commissioners shall in like manner keep distinct and separate accounts of all monies so placed to the said accounts, pursuant to the provisions of this act.

II. Provided always, That no such annuity or annuities shall be con- Annuities not tracted for by the said trustees or managers on behalf of the said com- to be granted missioners upon the life of any nominee, under the provisions of this on the life of act, who on the day when the contract for such annuity or annuities any nomines shall be made shall be under the age of fifteen years; neither shall any under fifteen

No. I. nor to exceed 201. per annum.

Commissioners, &c. may tract for any annuity.

Amount of fee limited to 2s. 6d. and to be applied in defraying the necessary expences of trustees.

Payments may be made and annuities re-&c. than that at which the contract was originally entered into.

Treasury shall direct use of tables of the value of annuities as approved by them.

such annuity or annuities sold or granted to or possessed by any one 3 W. 4, c. 14. individual exceed in the whole the sum of twenty pounds nor less than four pounds per annum: Provided also, That it shall be lawful for the said trustees or managers, or commissioners, or the comptroller general or assistant comptroller acting under the said commissioners, to decline or refuse to contract for, sell, or grant any annuity, under the provisions of this act, in any case where there shall be, in the opinion of the said trustees or managers, or of the said commissioners, or of the said comptroller general or assistant comptroller, sufficient grounds for refusing decline to con- or declining so to do: Provided also, That if any one individual shall have or hold or be possessed at any one time of any annuity or annuities granted under the provisions of this act exceeding in the whole the sum of twenty pounds per annum, the said annuity or annuities shall immediately cease and be forfeited.

III. That it shall not be lawful for the said trustees or managers to to be taken on take, demand, or receive from any person applying to enter into any application for contract for the purchase of such annuity as aforesaid, for admission annuity to be fee or otherwise, a greater sum of money than two shillings and sixpence, nor from any person who may have entered into any such contract a greater sum annually than the sum of one shilling, which said several sums the said trustees are hereby authorized and empowered to charge and demand of and from such persons as aforesaid; and that the money arising from such fees and payments shall be applied towards defraying the necessary expences incurred by the said trustees or managers in carrying into execution the provisions of this act with respect to the contracting for, granting, and paying such annuities.

IV. That it shall and may be lawful for any person, having contracted for the purchase of any such annuity as aforesaid, with the consent of the commissioners for the reduction of the national debt, or ceived at other the comptroller general or assistant comptroller acting under them, to savings banks, make the annual or other payments, or to receive the said annuity so contracted for as aforesaid, through the hands of the trustees or managers of any other savings bank or society (herein-after mentioned) than that at which such person originally entered into such contract as aforesaid.

> V. That for the better carrying this act into execution it shall and may be lawful for the commissioners of his Majesty's treasury, or any three or more of them, from time to time, as they shall think fit, to direct the commissioners for the reduction of the national debt to use and adopt such tables as shall, from time to time, be authorized and approved of by the said commissioners of the treasury, or any three or more of them, for ascertaining the values of annuities, whether immediate or deferred, depending on the continuance of single lives, and also such tables of the values of annuities for a certain limited term of years, immediate or deferred, as may be granted according to the provisions of this act; and such respective tables shall be valid and effectual for the purposes of this act; and all annuities for lives or years, of whatsoever kind, to be purchased under the provisions of this act, shall be purchased according to the values stated in such tables respectively so long as the same shall remain in force; and it shall be lawful for the said commissioners of the treasury to alter, revoke, and recal all or any of the said tables from time to time, and to direct the use and adoption of such other tables in lieu thereof as shall be approved of by the said commissioners of the treasury, and also to discontinue, by any warrant under their hands, addressed to the said commissioners for the reduction of the national debt (of which the said last-mentioned commissioners shall give notice in the London Gazette), the granting of any annuities for lives or years under the provisions of this act, if they shall think it fit and expedient so to do: Provided always, That the said commissioners for the reduction of the national debt shall, previous to the adoption and using of any such tables respectively, give notice, from time to time, in the London Gazette, in such form and manner as

to the said commissioners for the reduction of the national debt shall seem fit and proper, that such tables have been authorized and approved 3 W. 4, c. 14.

by the said commissioners of the treasury

VI. That in every case when any sum of money shall be paid as the Purchasers of consideration for the purchase of any annuity for lives or years, of whatsoever kind, under the provisions of this act, the person or persons purchasing any such annuity for lives or years, upon the payment of such entitled to such sum of money to the said trustees or managers, and by the said trustees amount of paid into the bank of England to the account of the said commissioners, annuity as entitled "The Fund for purchasing Life Annuities or Annuities for shall be spe-Terms of Years on account of Savings Banks and Parochial Societies," cified in the shall for every sum of money paid be entitled to receive, during the tables. continuance of the single life of the nominee, whether such life annuity shall be immediate or deferred, or during the term of years, immediate or deferred, for which any annuity shall be granted under this act, an annuity for a life or for terms of years, as the case may be, of such annual amount as shall be specified in any such table or tables respectively as the commissioners of his Majesty's treasury, or any three or more of them, shall from time to time authorize and approve, in manner herein-before directed, to be calculated and ascertained according to the age of the nominee, or the continuance of the term of years respectively, as the case may be.

VII. That in every case where the calculation of the amount of any Preventing annuity according to the provisions of this act shall produce a fraction fractions. less than sixpence, the fractional part of the said annuity less than sixpence shall be taken from the amount thereof, and shall not be payable by the officer of the said commissioners for the reduction of the national

debt.

VIII. That all life annuities of whatsoever kind, which shall be pur- Life annuities chased and granted under the provisions of this act, (whether such life granted under annuities shall commence immediately or not,) shall, in their due course this act shall as the same shall fall due and become payable, be carried to a new and be carried to a separate account in the books of the said commissioners for the reduc- separate action of the national debt; and all annuities for terms of years which count, as also shall be purchased and granted under this act shall in like manner be annuities for carried to a new and separate account in the books of the said commissioners.

IX. That whenever proof of the age of any nominee shall have been Life annuitants produced under the provisions of this act, as herein-after directed, any may make furperson or persons who shall be desirous of purchasing any annuity or ther purchases annuities, whether such annuity shall depend upon the life of such per- on lives of son or not (the total amount of such annuities not exceeding the sum original nomiherein-before mentioned), on the life of such nominee (whether such fresh certifilife annuities shall have been originally contracted for to commence immediately or not), shall be at liberty so to do; and the original proof of the age of such nominee, produced at the time of the purchase of the first annuity upon the life of such nominee, shall be deemed sufficient for that purpose, without the production of any further proof of age.

X. That for the purpose of ascertaining from time to time the amount Amount of of annuities for lives or for terms of years, payable under the authority annuities from of annuities for lives of for terms of years, payable under the admitted time to time of this act, the said comptroller general or assistant comptroller acting time to time under the said commissioners shall, within fourteen days preceding the be certified to fifth day of July, the tenth day of October, the fifth day of January, the treasury, and the fifth day of April in each and every year, (commencing on the who shall issue tenth day of October one thousand eight hundred and thirty-three,) their warrant certify to the commissioners of his Majesty's treasury the amount of to the bank for annuities for lives and of annuities for terms of years payable under this payment act, the half-yearly payments of which shall from time to time be thereof out of chargeable upon the said consolidated fund on each of such days res- the consolipectively; and the said commissioners of the treasury, or any three dated fund. or more of them, shall thereupon order and direct, by warrant under their hands, the sums specified from time to time in every such certifi-

No. I.

annuities for lives or for entitled to such

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Treasury shall direct use of tables of the value of annuities as approved by them.

such annuity or annuities sold or granted to or possessed by any one 3 W. 4, c. 14. individual exceed in the whole the sum of twenty pounds nor less than four pounds per annum: Provided also, That it shall be lawful for the said trustees or managers, or commissioners, or the comptroller general or assistant comptroller acting under the said commissioners, to decline or refuse to contract for, sell, or grant any annuity, under the provisions of this act, in any case where there shall be, in the opinion of the said trustees or managers, or of the said commissioners, or of the said comptroller general or assistant comptroller, sufficient grounds for refusing decline to con- or declining so to do: Provided also, That if any one individual shall have or hold or be possessed at any one time of any annuity or annuities granted under the provisions of this act exceeding in the whole the sum of twenty pounds per annum, the said annuity or annuities shall immediately cease and be forfeited.

III. That it shall not be lawful for the said trustees or managers to to be taken on take, demand, or receive from any person applying to enter into any application for contract for the purchase of such annuity as aforesaid, for admission annuity to be fee or otherwise, a greater sum of money than two shillings and sixpence, nor from any person who may have entered into any such contract a greater sum annually than the sum of one shilling, which said several sums the said trustees are hereby authorized and empowered to charge and demand of and from such persons as aforesaid; and that the money arising from such fees and payments shall be applied towards defraying the necessary expences incurred by the said trustees or managers in carrying into execution the provisions of this act with respect to the contracting for, granting, and paying such annuities.

IV. That it shall and may be lawful for any person, having contracted for the purchase of any such annuity as aforesaid, with the consent of the commissioners for the reduction of the national debt, or ceived at other the comptroller general or assistant comptroller acting under them, to savings banks, make the annual or other payments, or to receive the said annuity so contracted for as aforesaid, through the hands of the trustees or managers of any other savings bank or society (herein-after mentioned) than that at which such person originally entered into such contract as aforesaid.

V. That for the better carrying this act into execution it shall and may be lawful for the commissioners of his Majesty's treasury, or any three or more of them, from time to time, as they shall think fit, to direct the commissioners for the reduction of the national debt to use and adopt such tables as shall, from time to time, be authorized and approved of by the said commissioners of the treasury, or any three or more of them, for ascertaining the values of annuities, whether immediate or deferred, depending on the continuance of single lives, and also such tables of the values of annuities for a certain limited term of years, immediate or deferred, as may be granted according to the provisions of this act; and such respective tables shall be valid and effectual for the purposes of this act; and all annuities for lives or years, of whatsoever kind, to be purchased under the provisions of this act, shall be purchased according to the values stated in such tables respectively so long as the same shall remain in force; and it shall be lawful for the said commissioners of the treasury to alter, revoke, and recal all or any of the said tables from time to time, and to direct the use and adoption of such other tables in lieu thereof as shall be approved of by the said commissioners of the treasury, and also to discontinue, by any warrant under their hands, addressed to the said commissioners for the reduction of the national debt (of which the said last-mentioned commissioners shall give notice in the London Gazette), the granting of any annuities for lives or years under the provisions of this act, if they shall think it fit and expedient so to do: Provided always, That the said commissioners for the reduction of the national debt shall, previous to the adoption and using of any such tables respectively, give notice, from time to time, in the London Gazette, in such form and manner as

to the said commissioners for the reduction of the national debt shall seem fit and proper, that such tables have been authorized and approved 3 W. 4, c. 14.

by the said commissioners of the treasury

VI. That in every case when any sum of money shall be paid as the Purchasers of annuities for consideration for the purchase of any annuity for lives or years, of whatsoever kind, under the provisions of this act, the person or persons puryears shall be chasing any such annuity for lives or years, upon the payment of such entitled to such sum of money to the said trustees or managers, and by the said trustees amount of paid into the bank of England to the account of the said commissioners, annuity as entitled "The Fund for purchasing Life Annuities or Annuities for shall be spe-Terms of Years on account of Savings Banks and Parochial Societies," cified in the shall for every sum of money paid be entitled to receive, during the tables. continuance of the single life of the nominee, whether such life annuity shall be immediate or deferred, or during the term of years, immediate or deferred, for which any annuity shall be granted under this act, an annuity for a life or for terms of years, as the case may be, of such annual amount as shall be specified in any such table or tables respectively as the commissioners of his Majesty's treasury, or any three or more of them, shall from time to time authorize and approve, in manner herein-before directed, to be calculated and ascertained according to the age of the nominee, or the continuance of the term of years respectively, as the case may be.

VII. That in every case where the calculation of the amount of any Preventing annuity according to the provisions of this act shall produce a fraction fractions. less than sixpence, the fractional part of the said annuity less than sixpence shall be taken from the amount thereof, and shall not be payable by the officer of the said commissioners for the reduction of the national

VIII. That all life annuities of whatsoever kind, which shall be pur- Life annuities chased and granted under the provisions of this act, (whether such life granted under annuities shall commence immediately or not,) shall, in their due course this act shall as the same shall fall due and become payable, be carried to a new and be carried to a separate account in the books of the said commissioners for the reduc- separate action of the national debt; and all annuities for terms of years which count, as also shall be purchased and granted under this act shall in like manner be annuities for carried to a new and separate account in the books of the said commissioners.

IX. That whenever proof of the age of any nominee shall have been Life annuitants produced under the provisions of this act, as herein-after directed, any may make furperson or persons who shall be desirous of purchasing any annuity or ther purchases annuities, whether such annuity shall depend upon the life of such per- on lives of son or not (the total amount of such annuities not exceeding the sum original nomiherein-before mentioned), on the life of such nominee (whether such nees without fresh certifilife annuities shall have been originally contracted for to commence immediately or not), shall be at liberty so to do; and the original proof of the age of such nominee, produced at the time of the purchase of the first annuity upon the life of such nominee, shall be deemed sufficient for that purpose, without the production of any further proof of age.

X. That for the purpose of ascertaining from time to time the amount Amount of of annuities for lives or for terms of years, payable under the authority annuities from of this act, the said comptroller general or assistant comptroller acting time to time of this act, the said comptrouer general or assistant competoner acting payable shall under the said commissioners shall, within fourteen days preceding the be certified to fifth day of July, the tenth day of October, the fifth day of January, the treasury, and the fifth day of April in each and every year, (commencing on the who shall issue tenth day of October one thousand eight hundred and thirty-three,) their warrant certify to the commissioners of his Majesty's treasury the amount of to the bank for annuities for lives and of annuities for terms of years payable under this payment act, the half-yearly payments of which shall from time to time be thereof out of chargeable upon the said consolidated fund on each of such days res- the consolipectively; and the said commissioners of the treasury, or any three dated fund. or more of them, shall thereupon order and direct, by warrant under their hands, the sums specified from time to time in every such certifi-

No. I.

No. I.

cate to be issued and paid out of the said consolidated fund from time 3 W. 4, c. 14. to time to the governor and company of the bank of England, to be by them placed to the account of the said commissioners for the reduction of the national debt, for the purposes of paying all such annuities respectively.

Time of payment of anunder this act.

XI. That all annuities for lives or years of whatsoever kind, which shall be purchased under the provisions of this act, shall be payable by nuities granted two equal half-yearly payments, to be respectively made on the fifth day of January and on the fifth day of July, or on the fifth day of April and the tenth day of October, in each and every year, according to the respective periods, as herein-after mentioned, within which any money shall be paid for the purchase of any such annuities for life or years of whatsoever kind respectively; and the first half-yearly payment of every such annuity so purchased shall be made at the times following; (that is to say,) on the fifth day of January in respect of all such purchases completed by the actual payment of money into the bank of England to the account of the said commissioners herein-after mentioned at any time during the quarter ending on the tenth day of October preceding such fifth day of January; on the fifth day of April, in respect of all such purchases so completed at any time during the quarter ending on the fifth day of January preceding the fifth day of April; on the fifth day of July in respect of all such purchases so completed at any time during the quarter ending the fifth day of April preceding such fifth day of July; and on the tenth day of October in respect of all such purchases so completed at any time during the quarter ending on the fifth day of July preceding such tenth day of October; and all future half-yearly payments of every such annuity shall be made with reference to the time of such half yearly payment: Provided Quarterly pay- always, that upon the death of any nominee in respect of any life anment on death nuity, a sum equal to one fourth part of the annuity depending upon the life of such nominee (over and above all half-yearly arrears thereof respectively,) shall be payable to the person or persons entitled to such annuity, or his, her, or their executors or administrators, (as the case may he), on the half-yearly days of payment next succeeding the production of proof to the said trustees, and by them to the said commissioners, certifying the death of such nominee; provided that such proof shall be produced to the said commissioners within thirty days next preceding the fifth day of January, fifth day of April, fifth day of July, and tenth day of October respectively in every year, and that such last-mentioned payment shall be claimed within two years after the death of such nominee, but not otherwise: Provided also, that the fourth part of any expired life annuity payable under the provisions of this act shall not be payable or be paid upon or in respect of any deferred life annuity, unless one half-yearly payment of such deferred life annuity shall have been actually paid or become due at the time of the decease of such nominee.

of nominee of life annuities.

Proviso as to deferred annuities.

Bargains for be made for 14 days after the quarterly day of payment.

Contracts for sanctioned by commissioners national debt before they are entered into.

XII. That for the space of fourteen days next after any of the said annuities not to quarterly days for payment of the said annuities respectively, no bargain or contract shall be made by the said trustees or managers on behalf of the said commissioners for the reduction of the national debt, for the grant or purchase of any annuity under this act; any thing here-

in-before contained to the contrary in anywise notwithstanding.

XIII. That all contracts for life annuities or annuities for a limited annuities to be term of years, whether immediate or deferred, which shall be entered into by the trustees or managers of any savings bank, or by the trustees or managers of any society in any parish or place authorized by this act for reduction of to contract for the same, shall in each and every case be deemed and taken to be contracts made by the said trustees or managers on behalf of the commissioners for the reduction of the national debt: Provided always, that no life annuity shall be permitted to be contracted for, nor shall any payment of any life annuity be made, under the provisions of this act, until proof of the age of the person proposed to be nominated,

No. I.

and until proof of the existence and identity of the respective nominees upon whose life the payment of any annuity shall be demanded shall 3 W: 4, c. 14. have been previously submitted to and approved of by the said commissioners, or by the comptroller general or assistant comptroller acting under the said commissioners; and the said annuities for lives and for terms of years shall be placed under the same regulations as are contained in the acts now in force for enabling the said commissioners to grant life annuities and annuities for terms of years, so far as the same can be made applicable thereto, save and except that no charge by way of commission shall be made by the said commissioners at any time on any sum of money which shall be paid by any person for the purchase of any annuities under the provisions of this act, and also according to such instructions and regulations as the said commissioners, or the said comptroller general or assistant comptroller, shall from time to time issue and direct for carrying into effect the provisions of this act; and all the provisions, penalties, and forfeitures in the said last-mentioned acts contained shall apply and be in force with regard to any and all annuities granted under this act in the same manner as though the same were expressly enacted herein, except so far as the same shall be altered or varied by this act.

XIV. That upon the production to the proper officer of the said com- On production missioners for the reduction of the national debt of proof of the exist- of proof of ence and identity of the respective nominees, as herein-before enacted, existence, &c. and upon the same being approved by such officer, it shall be lawful for certificate shall any two trustees of the savings bank wherein such respective nominees be granted for shall be registered, and also for any two trustees of any society duly payment of annuity for established in any parish under this act, to draw upon the said commis-life. sioners for the half-yearly payment of the several annuities then due upon the lives of such nominees respectively; and such officer shall and he is hereby required to pay to the said trustees as aforesaid, or their respective agents, now appointed or hereafter to be appointed, within five days after the production of such draft, the several half-yearly payments then due.

XV. That in all cases of annuities for terms of years it shall be lawful Annuities for for the said trustees, as herein-before mentioned, to draw upon the said terms of years commissioners for the half-yearly payment of the several last-mentioned to be paid annuities then due; and the said officer shall and he is hereby required without proof. to pay to the said trustees or their respective agents, now appointed or hereafter duly appointed, within five days after the draft is presented, the several half-yearly payments then due.

XVI. That the right, title, interest, and benefit in and to any annuity, Annuities of whatsoever kind, whether such annuity shall be immediate or de-granted under ferred, which may be purchased under the provisions of this act, shall this act not not be transferrable or assignable by the purchaser thereof so as to transferrable, enable the assignee to receive the same during the lifetime of the said purchaser, except in case of his or her insolvency or bankrupty when the same shall become the property of his or her assignee or assignees for the benefit of his or her creditors, and the same shall, in such case, after due notice of such insolvency or bankruptcy, be paid to such assignee or assignees aforesaid; and in case of any such bankruptcy or insolvency, the said commissioners for the reduction of the national debt shall re-purchase the said annuity according to the value thereof, the same being computed upon the same tables upon which the said annuity was originally purchased; and the receipt of the assignee or assignees shall be a sufficient discharge to the said commissioners.

except in case of bankruptcy or insolvency.

XVII. That life annuities and annuities for terms of years, purchased As to the liaunder the provisions of this act, shall not be subject or liable to any bility of annuitaxes, charges, or impositions whatever; and that all such annuities ties to taxes. shall be deemed personal estate, and in all cases where the same shall Annuities shall not depend upon the life of the person entitled thereto shall go to the be personal executors or administrators of such person as personal estate, and shall estate. not be descendible to the heirs.

No. L. ments are not kept up, or if party die before annuity commences, all payments to be returned.

XVIII. Provided always, That whenever it shall happen that any 3 W. 4, c. 14. person, having made any one or more annual payment or payments, in cases where the consideration for any deferred life annuity or annuity If annual pay- for terms of years shall be by annual payments for or in the purchase of any deferred annuity under this act, or their respective executors or administrators, shall make default in paying or continuing to make the residue of such annual payments until the whole consideration for any such life annuity or annuity for terms of years shall be fully paid according to the agreement for the same, or in case the person so contracting for such life annuity or annuity for terms of years should die previous to the said annuity becoming payable, then and in every such case the amount of all annual payments which shall have been actually made previous to such default shall be returned, exclusive of interest, to the said person so making default as aforesaid; or in case of the death of the party having entered into such contract as herein-before mentioned, the annual or other payment or payments which shall have been actually made previous to his death shall be paid, exclusive of interest, to his executors or administrators; and that the money so returned shall be charged, paid, and defrayed out of the monies standing in the names of the commissioners for the reduction of the national debt at the bank of England, under the provisions of this act.

Registers, receipts, &c. exempt from stamp duty.

XIX. That no stamp duty whatever shall be paid or payable upon or in respect of any copy of any register of the birth or baptism or marriage or burial of any nominee or other person, or upon or in respect of any certificate or declaration to be made or taken in pursuance of this act, or any certificate or other instrument whatsoever respecting the payment of money for the purchase of any annuity under this act, or any power of attorney authorizing the receipt; or any receipt for the payment of any such annuity or any part thereof, but that the same shall be respectively free from all stamp duties whatsoever, any thing in any act or acts to the contrary notwithstanding.

Appointment of clerks and officers.

XX. That it shall be lawful for the commissioners for the reduction of the national debt, and they are hereby authorized and empowered, from time to time to appoint such officers, clerks, and other persons as may be necessary for carrying this act into execution, and as may be approved

For defraying expences attending the execution of this act.

of by the commissioners of his Majesty's treasury. XXI. That it shall be lawful for the lord high treasurer, or the commissioners of his Majesty's treasury, or any three or more of them for the time being, to order and direct to be issued and paid, out of the fund upon which the establishment of the commissioners for the reduction of the national debt is chargeable, any sum or sums of money for the payment of salaries to officers and clerks acting in the execution of this act, in such manner as the said lord high treasurer, or commissioners of the treasury, or any three or more of them, shall from time to time think fit and reasonable: Provided always, that any incidental expences incurred by the said commissioners for the reduction of the national debt in carrying into execution this act, or the said act made and passed in the ninth year of the reign of king George the fourth, intituled An Act to consolidate and amend the Laws relating to Savings Banks, or the act made and passed in the tenth year of the reign of king George the fourth, intituled An Act to consolidate and amend the Laws relating to Friendly 10 G. 4, c. 56. Societies, shall and may be defrayed by the commissioners for the reduction of the national debt out of any monies, stocks, or funds standing in the names of the said commissioners at the bank of England.

9 G. 4, c. 92.

XXII. That it shall be lawful for any three or more of the commiscommissioners, sioners for the reduction of the national debt for the time being to execute and do all matters and things which the said commissioners are

Quorum of

required or empowered to do for the execution of this act. XXIII. That there shall be prepared and annually laid before both houses of parliament, on or before the twenty-fifth day of March in every year if Parliament shall be then sitting, and if parliament shall not be then sitting, then within fourteen days after the commencement

Account to be

annually laid before parliament of anof the then next session of parliament, an account, made up by the commissioners for the reduction of the national debt to the fifth day of 3 W. 4, c. 24. January preceding, of the gross amount of all sums of money paid to the said commissioners, and the gross amount of annuities for lives and nuities granted. for terms of years which shall have been granted for the same, under the and of money provisions of this act, within the year ending on the fifth day of January paid for anas aforesaid.

XXIV. That the said commissioners for the reduction of the national Monies paid to debt shall cause all monies placed to their said accounts in pursuance of commissioners the provisions of this act to be invested from time to time, under such on account of regulations as the said commissioners shall direct, in the purchase of this act to be any bank annuities, or annuities for terms of years, or exchequer bills, invested in bank annuities or in either of them, and to be carried to the accounts herein-before provided; which said bank annuities and exchequer bills (as the case may years, or exbe) shall be forthwith cancelled, and all interest or dividends on such chequer bills, bank annuities shall cease to be charged upon or to be issued out of the which shall be consolidated fund from and after the day upon which any such bank cancelled. annuities shall have been purchased by the said commissioners: Provided nevertheless, that it shall and may be lawful for the said commis- Commissioners sioners for the reduction of the national debt to retain and reserve from may reserve a time to time so much of such monies as they shall deem expedient for part of such the purpose of enabling the said commissioners to return and pay back sums to repay any sum or sums of money, as herein-before directed, to such person money claimed or persons who shall have contracted for the purchase of any annuity death, &c. of under the provisions of this act, by annual or other payments, but who, party purfrom death or otherwise, may not be enabled to make good and keep up chasing the same, or to his, her, or their executors or administrators, as well as annuity. to the executors or administrators of such person or persons who may die before the annuity which he, she, or they may have contracted for becomes payable.

XXV. That it shall be lawful for the said commissioners for the re- Commissioners duction of the national debt from time to time, and as they shall think may sell and fit, to sell and dispose of the bank annuities and exchequer bills, or any dispose of bank part thereof, which may be now standing or may hereafter stand in their annuities, &c. names in the books of the bank of England, in pursuance of the said act now standing made and passed in the ninth year of the reign of King George the in their names, fourth, intituled An Act to consolidate and amend the Laws relating to pursuant to Savings Banks, and of the said act made and passed in the tenth year of and 10 G. 4, the reign of his said late Majesty George the fourth, intituled An Act to c. 56, and purconsolidate and amend the Laws relating to Friendly Societies, and with chase other the proceeds thereof to purchase in lieu thereof any other description bank annuities, of bank annuities, or annuities for terms of years, or exchequer &c. in lieu bille.

XXVI. That it shall and may be lawful for the trustees and managers Trustees may of any savings bank, desirous of carrying the provisions of this act into make rules for execution, to frame rules and regulations for that purpose; and that all carrying the the provisions of the said act, made and passed in the ninth year of the provisions of reign of his said late Majesty king George the fourth, as relate to the this act into framing, enrolling, and altering rules of savings banks, as well as to execution. disputes between the said trustees or managers and depositors therein, shall be applicable to the rules and regulations to be made under the provisions of this act, and to the parties purchasing such annuities, as herein mentioned; and that for the purposes of this act every person purchasing an annuity through the medium of a savings bank shall be considered as a depositor in a savings bank.

XXVII. That in any parish or place in the united kingdom where no Where no savings bank is legally established under the provisions of the said act savings bank is herein-before mentioned, it shall and may be lawful to and for any per-legally estasons in such parish or place to establish a society for carrying the provi-blished, other sions of this act into execution; provided that the rector or vicar or trustees may minister of the parish, or elder for the time being, or a resident justice establish a society for the of the peace, shall be one of the trustees of such society; and provided purpose of

thereof.

PART IV.

Of Courts and Civil Proceedings.

CLASS 1. General Courts of Common Law, Court Houses, Judges.

2. Attornies and other Officers.

3. Original Writ, Process, Arrest, Imprisonment, Bail, Appearance.

4. Outlawry.

5. Privilege of Parliament.

6. Pleadings, &c.

7. Set-off.

- 8. Limitations.
- 9. Juries and Trials.

10. Evidence.

11. Costs.

12. Judgment, Execution, Statutes, Recognizances.

13. Error and False Judgment.

14. Miscellaneous Statutes respecting Civil Actions and Proceedings.

15. Wales, Counties Palatine, Liberties.

16. Inferior Courts.

17. Statutes relating to Personal Liberty.

18. Real Actions.

19. Distress, Replevin, and Matter relating to Landlord and Tenant.

20. Actions against Justices of Peace, and other Officers.

21. Penal Actions and Informations.

22. Hue and Cry, and Actions against the Hundred.

23. King's Debts.

24. Ecclesiastical and Maritime Courts.

25. Courts of Equity.

26. Coroners.

27. Warden.

28. Bankrupts.

CLASS I.

GENERAL COURTS OF COMMON LAW, COURT HOUSES, JUDGES.

[No. I.] 1 W. IV. c. 58.—An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law (1).

[23rd July 1830.]

WHEREAS it may be necessary for the better administration of justice that amendments and alterations should be made in the process, practice, pleadings, and other proceedings of his Majesty's superior

⁽¹⁾ See post, the 1 & 2 W. 4, c. 35, explaining and amending this act.

Class I.] General Courts of Common Law, Court Houses, Judges.

courts of common law in England and Wales, or that the offices belonging to the said courts should be subjected to new regulations, 1 W. 4, c. 58. whereby the amount of fees and emoluments which some of the officers are or may be entitled to demand and receive in respect of the duties of their offices may be diminished or wholly taken away, and the amount of fees and emoluments which others are or may be entitled so to demand and receive increased: And whereas it is fit that compensation should be made for any such loss, and that the public should have the benefit of any such increase of fees and emoluments: Be it therefore enacted, &c., That, except as herein-after mentioned, every person who Persons holdon the twenty-fourth day of May one thousand eight hundred and ing offices in thirty shall have held any office in or belonging to any of the said courts, the superior in fee, or for any term either of life or years, or who shall then have render to the been appointed to any other office or employment in or belonging to commissioners any of the said courts, by virtue of any right of appointment hereto- under this act fore exercised by any of the judges of his Majesty's courts of record at an account of Westminster, and every cursitor of the court of chancery, and every their receipts person holding any office connected with the passing of fines and reco- for the last ten veries, who shall have been appointed on or before the said twenty- years. fourth day of May, shall forthwith, after the passing of this act, make or cause to be made out, and render to the commissioners to be appointed by virtue of this act as herein-after mentioned, an account in writing, in such form and with such particulars of receipt and otherwise as the said commissioners shall require, of all such lawful fees and emoluments as aforesaid which shall have become due in respect of every such office or employment as aforesaid, and of all disbursements and allowances made thereout, and charges affecting the same, in each of the ten years next preceding the said twenty-fourth day of May one thousand eight hundred and thirty.

II. Provided always, That every officer who claimed and was entitled Officers entito compensation in respect of any fees or emoluments under the pro- tled to and visions of an act passed in the sixth year of the reign of his late Majesty who claimed king George the fourth, intituled An Act for preventing frivolous Writs compensation of Error, shall forthwith after the passing of this act make out and under 6 G. 4, render to the commissioners to be appointed by virtue of this act such an account for account in writing as herein-before directed, so far as regards such fees ten years before and emoluments, in respect of the ten years mentioned in the said the passing of recited act, in lieu of the ten years above mentioned; and that so much that act. of the said recited act as relates to the inquiring and ascertaining and certifying and paying the amount of the diminution or excess in the same act mentioned shall, from and after the last day of Trinity term one thousand eight hundred and thirty, cease and be of no effect, except so far as regards the compensation due to such persons under the said recited act up to the said last day of Trinity term one thousand eight hundred and thirty.

III. That in case any person holding any such office or employment If an account as aforesaid shall not be able to make or cause to be made out any such cannot be renaccount as aforesaid for every one of the years in respect of which the dered, the same is to be so rendered, he shall specify in the account which he shall reason to be render the reason why he is not able to render an account for any such stated. year or years as may be omitted.

IV. That the said commissioners shall be authorized to inquire into Commissioners and examine as well the legality as the amount of the fees and emolu- may examine ments contained in any such account as aforesaid, and of all disburse- the legality. ments and allowances made in respect thereof, and of all charges &c. of the fees affecting the same; and to require proof to be made, upon oath, either upon oath. personally or in writing, of any matter into which such commissioners may think it necessary to inquire; which oath may be administered either by such commissioners, or any three of them, or by a judge or commissioner of any of the said courts.

V. That the said commissioners shall ascertain the gross and net Commissioners annual value, according to a fair average of the said ten years as afore-shall ascertain

General Courts of Common Law, Court Houses, Judges. [Part IV.

No. I. such offices according to an average of ten years;

said, of the lawful fees and emoluments of all such offices and employ-1 W. 4, c. 58. ments as aforesaid; and in every case wherein it shall happen that the fees and emoluments relating to any particular year or years shall have the value of all been omitted by any officer in the account rendered to the said commissioners, and they shall be satisfied with the reason given for such omission, the said commissioners shall estimate the gross and net annual value of the office or employment of such officer according to the best of their judgment; and in order to assist them in forming a judgment therein, they shall have regard to the amount of fees and emoluments which in the year or years omitted have been received by other officers, the fees and emoluments of whose offices or employments may, in the opinion of the said commissioners, afford a fair ground of comparison.

and certify the same to the treasury.

VI. That when the said commissioners shall have ascertained to their satisfaction the gross and net annual value of the fees and emoluments of such offices and employments, or any of them, computed as aforesaid, together with the particulars of the disbursements, allowances, and charges constituting the difference between such gross and net annual value, they shall from time to time certify the same under their hands to the lord high treasurer or commissioners of his Majesty's treasury for the time being, who shall lay copies of every certificate of the said commissioners before both houses of parliament.

VII. That, until otherwise directed by lawful authority, all fees and emoluments that now are or may be legally received in respect of any such offices or employments shall continue to be received, and shall be

Officers to render an account of their fees in future to the treasury.

The fees to be

paid until

altered.

accounted for in the manner herein-after mentioned. VIII. That every person who on the twenty-fourth day of May one thousand eight hundred and thirty shall have held any such office or employment as aforesaid, and the heirs, executors, or administrators of every such person having an interest in such office, in fee, or for any term of life or years, shall, during his or their continuance or interest in such office or employment, render to the lord high treasurer or commissioners of his Majesty's treasury for the time being, upon oath, to be sworn before a judge of one of the said courts, or a commissioner duly authorized to take affidavits therein, a true account in writing of the gross and net amount of all such fees and emoluments as aforesaid, which shall have become due on account of such office or employment, specifying the particulars of the disbursements, allowances, and charges constituting the difference between such gross and net amounts, at and for such time or times, in such form, and with such further particulars of receipt or otherwise, as the commissioners to be appointed (by virtue of this act) shall fix.

Manner of proceeding if account is unsatisfactory.

IX. That in case the said lord high treasurer or commissioners of his Majesty's treasury for the time being, or any three or more of them, shall be dissatisfied with any account to be rendered to them as aforesaid, it shall and may be lawful for him or them to refer the same to any one or more of the chief justices, chief baron, or judges of any of his Majesty's superior courts at Westminster, or to any one or more of the masters of the high court of chancery, who shall thereupon, by such ways and means and by the examination of such persons as he or they shall think fit, and on oath, if he or they shall think an oath necessary to be administered, in manner aforesaid, inquire into and investigate the said accounts, or any item therein, and all or any of the disbursements, allowances, or charges therein contained, and make such allowances and disallowances therein as he or they shall think just and reasonable; and shall finally settle and certify in writing the net amount of the fees and emoluments to which such account relates.

If the fees he office, the

X. That in case the net amount of such fees and emoluments which received shall shall have become due to any person, who, on the said twenty-fourth exceed the cer-day of May one thousand eight hundred and thirty, shall have held any tified value of such office or employment as aforesaid, shall exceed the net annual value thereof which shall have been certified as aforesaid, the surplus shall,

within seven days after the rendering of such account as aforesaid, be paid into the receipt of the exchequer, to the credit of and as part of the 1 W. 4, c. 58. consolidated fund of the united kingdom; and if default shall be made in the payment of any such surplus as aforesaid into the receipt of the surplus shall exchequer, to the credit of the consolidated fund, the amount thereof be paid into shall be and be deemed a specialty debt due to his Majesty; and the the exchequer lord high treasurer or any three of the commissioners of his Majesty's to the consolitreasury for the time being shall or may from time to time, by an order dated fund. under his or their hands, appoint and authorize such person as he or they shall think proper to receive all the fees and emoluments of the said office or employment in respect of which such surplus is due; and every such person shall accordingly have and is hereby invested with Proceedings full power to receive aud compel payment of such fees and emoluments, against deuntil such surplus with interest thereon, and all costs and expences faulters. occasioned by the nonpayment thereof, are satisfied; and the monies so to be received shall be applied in payment of the same accordingly; and if any surplus shall remain in hand after making all such payments, the same shall be paid to the person entitled to such office or employment: Provided always, That every such officer shall and may retain, out of the surplus so to be paid by him into the receipt of the exchequer, so much money as the lord high treasurer or any three of the commissioners of his Majesty's treasury for the time being, and the lord chief justice or chief baron of the court to which the office or employment of such officer may belong, shall, by writing under their hands, authorize him to retain, as a reasonable compensation for his additional trouble in respect of the increase in the business of his said office or employment.

XI. That in case the net amount of such fees and emoluments which If the receipts shall become due to any person, who, on the said twenty-fourth day of fall short of May one thousand eight hundred and thirty, shall have held any such the certified office or employment as aforesaid, shall fall short of the net annual value, the difvalue thereof which shall have been certified as aforesaid, every such ference shall person, his heirs, executors, or administrators, having an interest in officers out of such office or employment, in fee, or for any term either of life or years, the consolishall, during his or their continuance or interest in such office or em-dated fund. ployment, be entitled to receive from the lord high treasurer or commissioners of his Majesty's treasury, within one calendar month next after the rendering of such account as aforesaid, the full amount of the difference between the net sum which shall have so become due and such certified value; and the amount so to be paid shall be charged upon and paid out of the consolidated fund of the united kingdom, without any fee or deduction whatsoever; and every person, who, on the said twenty-fourth day of May one thousand eight hundred and thirty, shall have been appointed to any office or employment by any judge as aforesaid, shall, during the continuance in office of the person so appointed, under and by virtue of that appointment, be entitled in like manner to receive such difference.

XII. Provided always, That in case any person entitled to receive or Provision for required to pay over any sum of money under the provisions of this act the case of an shall die or resign, or be dismissed from his office or employment, officer dying, before the termination of any year, the executors or administrators of &c. before the the person so dying, or the person himself so resigning or dismissed, end of the year. shall render such account as aforesaid for such part of the year during which the person so dying or resigning or dismissed shall have held such office or employment, and shall be entitled to receive or required to pay over an amount proportioned to that part of the year during which such person shall have held the same.

XIII. Provided also, That if any person authorized to make an ap- If addition is pointment to any office or employment as aforesaid shall, after the made to the twenty-fourth day of May aforesaid, have appointed, or shall hereafter number of perappoint, any other person or persons, in addition to the person or sons executing persons who held such last mentioned office or employment on that day, an office, the

374

General Courts of Common Law, Court Houses, Judges. [Part IV.

No. I. to be entitled only to the same amount of fees or compensation as those before appointed.

No persons hereafter appointed to any office shall be entitled to claim compensation.

This act not to prevent the officer.

Provision for payment of compensation in the event of any offices being abolished.

to execute the duties of such last-mentioned office or employment, all 1 W. 4, c. 58. the persons appointed to and executing the duties of such last-mentioned office or employment together shall be entitled to receive the difference between the net amount of the fees and emoluments received by virtue of that office or employment and such net certified value as aforesaid, and shall account for such fees and emoluments, and pay over such surplus as aforesaid, in like manner as if such office or employment had continued to be held by the same person or persons who held the same on the said twenty-fourth day of May, and no person appointed in addition as aforesaid shall be entitled to receive any more than his rateable part of such difference.

> XIV. That no person, who, after the said twenty-fourth day of May one thousand eight hundred and thirty, shall be appointed to any such office or employment as aforesaid, shall, nor shall any person who may appear to the satisfaction of the commissioners to be appointed by virtue of this act to have accepted office upon condition of relinquishing any claim to compensation in case of its abolition, be deemed entitled to prefer any claim to compensation in respect of any alteration of any kind whatsoever, which shall be made by lawful authority, in the constitution, process, practice, pleadings, or other proceedings of any of the said courts, or in the constitution, duties, or emoluments of any of the

said offices or employments, by such authority as aforesaid.

XV. Provided always, That nothing herein contained shall be construed to prevent any person from being dismissed from any office or dismissal of any employment which he may have held on the said twenty-fourth day of May one thousand eight hundred and thirty, in like manner as he might have been dismissed therefrom if this act had not been made, or to give him any greater or other interest in such office or employment than he might have lawfully claimed or exercised if this act had not been made.

XVI. Provided also, That if any such office or employment as aforesaid shall be abolished by lawful authority, every person, his heirs, executors, or administrators, who under the provisions of this act would have been entitled to receive the difference between the net amount of the fees and emoluments which would have become due and the certified value of such office or employment, in case the said office or employment were not abolished, shall be entitled to receive, during all the time for which such person was entitled to hold the office or employment so abolished, such annual sum as the lord high treasurer or any three of the commissioners of his Majesty's treasury for the time being, and the lord chief justice or lord chief baron of the court to which such office or employment may belong, shall fix and appoint, as a full and fair compensation for the loss of such office or employment, not exceeding in any case the amount of such certified value, and not being less in any case than three fourth parts thereof; and every person, who under the said provisions would be entitled to receive such difference during the joint continuance in office of himself and the person by whom he was appointed to any such office or employment, shall be entitled to receive such sum so to be fixed and appointed as aforesaid by the lord high treasurer or any three of the commissioners of his Majesty's treasury for the time being, and the lord chief justice or lord chief baron of the court to which such office or employment shall belong, during his natural life, if the person appointing him had such an interest in his office as would have so long continued, otherwise during such period only as his interest would have continued.

XVII. That it shall be lawful for the lord high treasurer or commistreasury to pur- sioners of his Majesty's treasury for the time being, or any three or chase offices in more of them, to agree with any person or persons who on the said twenty-fourth day of May one thousand eight hundred and thirty shall have held any such office or employment, in fee, or for life or term of years, or otherwise, for the absolute purchase of such office or employment for any sum of money, which sum of money shall be paid out of

Power for the fee or offices abolished.

the consolidated fund of the united kingdom: and that from and after such purchase and payment all fees and emoluments which shall become 1 W. 4, c. 58. due in respect of any such office or employment as shall be so purchased, and shall not have been abolished, shall be received by such person or persons as the lord high treasurer or any three of the commissioners of his Majesty's treasury shall from time to time appoint by writing under their hands, and shall be paid into the receipt of the exchequer, to the credit of and as part of the consolidated fund of the united kingdom.

No. I.

XVIII. That nothing in this act contained shall extend to require the No new acrender of any account of his Majesty's judges of the courts of record at count required Westminster other than such as is now required by law.

from the judges.

XIX. And whereas, in case of future appointments to any of the Amount of fees, offices or employments, of which an account is required by this act to be &c. may be rerendered, the fees and emoluments payable in respect of the duties of duced, and such offices or employments may exceed the amount of a reasonable surplus paid remuneration to the officer holding the same, and it is therefore expe-into treasury. dient to provide a power for reducing the same; be it enacted, That it shall be lawful for the lord high treasurer or the commissioners of his Majesty's treasury for the time being, or any three or more of them, when and as often as occasion may be or require, to reduce, so far as may appear reasonable, the amount of the fees and emoluments to be thereafter allowed to any officer who shall after the passing of this act be appointed to any office or employment as to which an account is required by this act to be rendered as aforesaid, and to direct that the surplus of the fees and emoluments to be received by him shall, after deducting such remuneration as aforesaid, be paid into the receipt of the exchequer, to the credit of and as part of the consolidated fund of the united kingdom: Provided always, That nothing herein contained shall affect any right which may be vested in or exercised by the said courts, or any of them, or any of the judges or officers thereof, of appointing persons to offices or employments in the same, or of regulating and controlling the manner in which the duties of any such offices or employments shall be performed.

XX. Provided always, That no future appointment of any person to As to future any office or employment, whereof an account is by this act required to appointments be rendered, shall be valid, so as to entitle such person to the fees or to offices emoluments thereof, until such person shall have given notice in writing whereof an acof such his appointment to the lord high treasurer or to the commis-count is hereby sioners of his Majesty's treasury for the time being; and that until such required. notice shall have been given, all fees or emoluments to be received by virtue of such office or employment shall be accounted for to the lord high treasurer or to the commissioners of his Majesty's treasury for the time being, and shall be paid into the receipt of the exchequer

as aforesaid.

XXI. That it shall not be lawful for any officer required to render an No addition to account of any fees or emoluments by virtue of this act to make any be made in addition to the number of persons employed in performing the duties of offices without such office or employment, or to the amount of remuneration to be paid consent of or allowed to any person or persons in respect of such services, so as to increase the disbursements or expences to be charged or claimed by such officer in respect of such office or employment, without the consent in writing of the said lord high treasurer or commissioners of his Majesty's treasury for the time being, or any three or more of them.

XXII. That every person who shall swear falsely to any matter re- False swearing specting which an oath either personally or in writing is hereby required under this act. or authorized to be made, and shall be convicted of so doing wilfully and corruptly, shall be deemed guilty of wilful and corrupt perjury, and shall suffer the pains and penalties of that offence.

XXIII. That it shall be lawful for the said lord high treasurer or the Power of apsaid commissioners of his Majesty's treasury for the time being, or any pointing com-

No. I.

three or more of them, from time to time, as occasion may be or re-1 W. 4, c. 58. quire, to appoint such and so many persons to be commissioners for carrying this act into effect as may to him or them appear fit and necessary, and any three or more of such commissioners to be so appointed shall be competent to act in the execution thereof.

> [No. II.] 1 W. IV. c. 69.—An Act for uniting the Benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of Scotland. [23d July 1830.]

> WHEREAS an act was passed in the fifty-fifth year of the reign of

his Majesty king George the third, intituled An Act to facilitate the

55 G. 3, c. 42. Administration of Justice in that Part of the United Kingdom called Scotland, by the extending Trial by Jury to Civil Causes: by which act certain commissioners were appointed for the trial of such causes, and certain regulations made in regard to such trials: And whereas another act was passed in the fifty-ninth year of the reign of his said Majesty, 59 G. 3, c. 35. intituled An Act to amend an Act passed in the fifty-fifth Year of the reign of his present Majesty, intituled 'An Act to facilitate the Administration

of Justice in that part of the United Kingdom called Scotland, by the extending Trial by Jury to Civil Causes: And whereas another act was passed in the sixth year of the reign of his late Majesty king George 6 G. 4, c. 120. the fourth, intituled An Act for the better regulating of the Forms of Process in the Courts of Law in Scotland: by which last act certain provisions were made relative to the constitution of the jury court, and which provisions are declared to continue and be in force until the thirtieth day of June in the year one thousand eight hundred and thirty, and from thence to the end of the next session of parliament; and it is further provided by the said last-recited act, that it should be lawful for his Majesty to appoint such persons as he should think fit, to make all inquiries, as they should be directed, by instructions from his Majesty, into the forms of proceeding in trials of civil causes by jury in Scotland, and to report whether these forms may be improved, and at what time and in what manner the union of the benefit of jury trial in civil causes with the jurisdiction of the court of session may be best accomplished: And whereas pursuant to the said last-recited act his late Majesty did, by an instrument under his royal sign manual, appoint certain persons to make the inquiries set forth in the said last-recited act, as more particularly specified in instructions annexed to the said instrument under the royal sign manual: And whereas the said commissioners so appointed made a report to his late Majesty upon the subject matters into which they were appointed to inquire; which report has been laid before both houses of parliament: And whereas it is expedient that the said recited acts should be altered, amended, and continued in certain parts, and that provision should be made for uniting the benefits of jury trial in civil causes with the ordinary jurisdiction of the court of session in Scotland; and that in so doing advantage should be taken of the knowledge and experience of the present lord chief commissioner and of the other lords commissioners of the jury court: And whereas it is also expedient that certain other alterations and reductions should take place in the judicial establishments of Scotland: May it therefore please your Majesty that it may be enacted; and be it enacted, &c., That from and after the fifth day of October next after the passing of this act, the jurisdiction for trial by jury in civil causes shall be united causes shall be with and shall form part of the ordinary administration of justice in united with the the court of session in Scotland; and the trial of causes by jury shall

From Oct. 5, 1830, trial by jury in civil -dinary admiration of

take place in the court of session as hereinafter directed: Provided always, That the jury court and the jurisdiction thereof shall continue 1 W. 4, c. 69. as now constituted until the said date, after which it shall cease and determine; but without prejudice to the present lord chief commissioner justice in the and the other lords commissioners of the jury court respectively con-court of session tinuing to perform the duties herein-after directed.

II. That from and after such union all causes and issues, which, if Causes to be they had occurred before the passing of this act, must by law have been prepared by tried by jury in the jury court, shall be tried by jury in the court of the lords ordisession; and such causes shall be prepared for trial by the lords ordinary, and tried

nary respectively before whom such causes shall depend.

III. That from and after the period when such union shall take place court of session. as aforesaid, the lords president of the two divisions shall respectively Lords president try by jury all issues arising out of causes depending in these divisions to try all jury respectively when such trials take place at Edinburgh; and may otherwise respectively discharge all duties previously assigned to the lord chief commissioner, in so far as may regard such causes, not being inconsistent with the provisions of this act: Provided always, That it shall continue to be competent to the said lord chief commissioner to Lord chief perform all such duties; and farther, That for the space of three years from and after the time when such union shall take place, there shall be present and form a component part of the court, upon all occasions duties relative when either of the lords president of the two divisions of the court of to trial of civil session shall respectively try by jury any issue arising out of a civil causes. cause, either the lord chief commissioner of the jury court, or one of the judges of the court of session, who at the time of such union shall have held the office of one of the lords commissioners of the jury court; and provided farther, That in the event of the indisposition or necessary Provision in absence of either of the said lords president, such issues shall, during case of absence the aforesaid space of three years, be tried either by the said lord chief of lord presicommissioner along with one of the judges of the court of session, or dent. by at least two judges of the court of session, whereof there shall be one of the said judges of the jury court; and that from and after the expiration of that period, such issues shall in the said events be tried by any other judge or judges of the division of the court before which the cause may depend.

IV. Provided always, That if the judges of the court of session who Lord president had held the office of commissioners of the jury court shall, before the may proceed to expiry of three years, be reduced to two, it shall be competent to the trial without lord president of either division to proceed to trial, if he think fit, with-judge of jury out any judge who has formerly been of the jury court, and they are court.

hereby empowered so to proceed.

V. That it shall and may be lawful for either party to apply to the Application for division of the court to which a cause belongs, that the issue or issues trial. shall be tried before such division; and such division may or may not,

in its discretion, order such cause to be so tried.

VI. That the lord president of each division of the court shall have Lord president power, and he is hereby authorized and empowered, to order and direct may direct that any issue or issues shall be tried before the division of the court issues to be to which he belongs: Provided always, That for the space of three years tried before his as aforesaid, either the lord chief commissioner or one of the aforesaid division of the judges of the jury court shall be one of the court on occasion of such court. trials.

VII. That all proceedings for the correction of errors or injustice Proceedings in alleged to have been committed in the trial of a cause, and all questions error to be reserved for decision after trial, and all questions relating to the appli-taken before cation of the verdict, or the rights and interests arising therefrom, and the division to all questions of expences, shall proceed before the division of the court which the to which the cause belongs: Provided always, That such division shall cause belongs. have power to order a hearing before the whole court of session, or to require the opinions of the other judges, on such points or questions as such division may deem proper.

by jury in the causes originating in their respective divi-

commissioner to continue to perform his

378

General Courts of Common Law, Court Houses, Judges. [Part IV.

No. II. 1 W. 4, c. 69 Lord chief commissioner

to sit as a lord clerk. of session in jury cases.

Trials by jury may pruceed sion is not sitting.

Provision for extending the winter and summer ses-SIODS.

VIII. That the said lord chief commissioner shall be empowered and have right to sit and vote in both divisions of the court as a judge of the court of session, in the before-recited and all other proceedings touching any cause now triable in the jury court, both before and after verdict, and shall be entitled to rank immediately after the lord justice

IX. That trials by jury may proceed at all such times, as well during session as in the vacation, as the division of the court before which the when the divi-cause stands inrolled shall appoint; and all causes remaining untried and entered as ready for trial, at the termination of the winter or summer sessions, or at the commencement of the Christmas recess, shall be tried at sittings of the court to be held immediately after these periods respectively, excepting only such causes as, on the motion of any party,

the court may think fit to postpone.

X. That it shall and may be lawful for his Majesty, his heirs and successors, with consent of his privy council, and he is hereby empowered, if he shall think fit, to order and direct that the winter and summer sessions of the court of session, or either of them, shall be extended, and to specify the time or times of such extension, and the precise duration thereof, and to direct that such extension shall apply either to the whole court of session, or exclusively to the permanent lords ordinary: Provided always, That such extension shall not on the whole exceed the space of one calendar month in the course of the year; and that it shall in like manner be lawful for his Majesty thereafter to direct that such extension be diminished as to duration, and altered or varied as to the time or times when the same shall take place, and that the sessions shall in like manner be again extended as occasion may require, and the said court, or the permanent lords ordinary, shall sit at the time or times and during the period or periods which may be so ordered by his Majesty; and for the information of his Majesty in this behalf, the lord president of the court of session is hereby required, on or before the fifteenth day of January in every year, to transmit to one of his Majesty's principal secretaries of state a return, according to the form prescribed in the schedule hereunto annexed; which return shall be laid before both houses of parliament.

Trial of issues before courts.

XI. That all causes or issues appointed to be trird before any circuit court shall and may be so tried before any one or more of the judges of the court of justiciary when upon circuit; and at all trials before any circuit court the jury shall be taken from the lists prepared for the trial of criminal offences: Provided always, That it shall be competent to either division of the court of session, if in their judgment it shall be considered necessary, to direct any causes or issues to be tried by any other judge or judges of the court of session at any circuit town, and if necessary for the trial of the same to cause jurymen to be summoned in the manner provided by the before recited acts.

Clerks in jury court.

XII. That the clerks and macers of the jury court shall continue to discharge the duties of their respective offices in the court of session, after such union, as well at Edinburgh as on the circuits; and that all other inferior offices in the jury court shall be and the same are hereby abolished.

Reduction of clerks, &c. in the court of session.

XIII. That the two vacancies which shall next occur in the office of principal clerk of session, as also in the office of deputy clerk of session, shall not be supplied; and that in like manner the vacancies in the offices of the other clerks belonging to the court of session shall not be supplied until the total number of such clerks, including those connected with proceedings in trial by jury, shall not exceed the number of clerks exclusively belonging to the court of session at the passing of this act; and it shall be lawful for the said court, from time to time as said vacancies occur, to make such regulations as may be necessary for duly apportioning the duty among the remaining clerks; and it is provided that as vacancies shall occur in the office of macer, the number of macers shall be reduced, so that they shall not exceed the number of macers officiating exclusively in the court of session at the passing of 1 W. 4, c. 69. this act.

XIV. That the appointment of depute clerks and of assistant clerks Appointment of session shall be vested in his Majesty; and it is hereby provided, of depute clerks that during the necessary absence of any principal clerk of session it to be in his shall be competent for any depute clerk of session to discharge the Majesty. duties of such principal clerk.

XV. That no payment on account of the fee fund of the court of ses- Certain causes sion, nor any fee or demand by any clerk or officer of that court, shall to be exempted be exigible in respect of any step or proceeding in any cause which from the fee might not have been exigible if such cause had been brought into the fund.

jury court previously to the passing of this act.

XVI. That all the provisions of the foresaid recited acts now in force, Provisions of in so far as not inconsistent with this act, shall be continued and remain above recited in force until altered or revoked by parliament, and that all rules and acts to remain regulations in observance in the jury court of the time of the union of in force where jury trial in civil causes with the administration of justice in the court not inconsistent of session, established and enforced by act of sederunt, shall continue with this act. and be observed as rules and regulations applicable to the court of session after such union, until the same shall be altered by acts of sederunt; and it is hereby provided, that the said court of session shall have full power and authority, by acts of sederunt, to make all regulations for duly adapting the forms previously observed in the jury court to the proceedings in the court of session, and afterwards to alter and amend such regulations when necessary: Provided always, That such regulations be not inconsistent with the provisions of this or any other act of parliament now in force; and that all acts of sederunt authorized Acts of sedeby this act to be made shall be laid before parliament, if sitting, within runt to be laid fifteen days from the respective dates thereof, and if parliament be not before parliasitting, within fifteen days from and after the next meeting of parlia- ment. ment.

XVII. That in the event of the death or resignation of the said lord No successors chief commissioner, or of any of the other lords commissioners of the to be appointed jury court, no successor shall be appointed to any such judge or judges to the present as commissioner of the jury court. jury court judges.

XVIII. That from and after the termination of the present existing Office of lord interest in the office of lord justice general, that office shall devolve justice general upon and remain united with the office of lord president of the court of to devolve on session, who shall perform the duties thereof as presiding judge in the lord president. court of justiciary; and that the salary attached to the office of lord justice general shall cease, and that the appointment of macers of the

said court shall be vested in his Majesty.

XIX. That when the office of lord justice general shall have devolved In such case upon the lord president of the court of session, and when he shall deem lord president it expedient to be present at any circuit court, it shall be lawful for him to dispatch buto dispatch business in such court, whether any other judge or judges of siness in any the court of justiciary be or be not present; any thing contained in an notwithstandact of the parliament of Scotland, passed in the year one thousand six ing act of the hundred and seventy-two, intituled An Act concerning the Regulation of Scotch parliathe Judicatories, or in an act passed in the twentieth year of the reign of ment 1672. his Majesty king George the second, intituled An Act for taking away c. 40, or and abolishing the Heritable Jurisdictions in that Part of Great Britain 20 G. 2, c. 43. called Scotland, and for making Satisfaction to the Proprietors thereof, and for restoring such Jurisdictions to the Crown, and for making more effectual Provision for the Administration of Justice throughout that Part of the United Kingdom, by the King's Courts and the Judges there, and for obliging all Persons acting as Procurators, Writers, or Agents in the Law in Scotland to take the Oaths, and for rendering the Union of the Kingdoms more complete, or in any other law or custom to the contrary notwithstanding.

XX. That when vacancies shall occur among the permanent lords Lords ordinary

General Courts of Common Law, Court Houses, Judges. [Part IV.

No. II. 1 W. 4, c. 69. to five, and the court to thirteen.

Transference of diction.

ordinary of the court of session, whether by death, resignation, or removal into one of the divisions of the inner house, such vacancies shall not be filled up until the number of permanent lords ordinary shall be reduced to five, so that the total number of judges composing the court of session, including the lord president and the lord justice clerk, shall be limited to thirteen.

XXI. And whereas all maritime causes may now be brought by admiralty juris- review before the court of session, and many causes formerly heard and determined by the high court of admiralty are now remitted to the jury court: And whereas the court of justiciary holds a cumulative jurisdiction with the high court of admiralty as to all crimes competent to be tried by the high court of admiralty: And whereas it has become unnecessary and inexpedient to maintain any separate court for maritime or admiralty causes; be it therefore enacted, That the high court of admiralty be abolished, and that hereafter the court of session shall hold and exercise original jurisdiction in all maritime civil causes and proceedings of the same nature and extent in all respects as that held and exercised in regard to such causes by the high court of admiralty before the passing of this act; and all applications of a summary nature connected with such causes may be made to the lord ordinary on the bills: Provided always, That all such causes, not exceeding the value of twenty-five pounds sterling, shall be instituted and carried on in the first instance before an inferior court, in the manner directed and with the exceptions specified in an act of the parliament of Scotland, passed in the year sixteen hundred and seventy-two, intituled An Act concerning the Regulation of the Judicatories.

1672, c. 40.

Sheriffs to have jurisdiction in maritime causes.

Maritime causes to be tried in same manner as other causes.

Provision when counties are separated by water.

XXII. That the sheriffs of Scotland and their substitutes shall, within their respective sheriffdoms, including the navigable rivers, ports, harbours, creeks, shores, and anchoring grounds in or adjoining such sheriffdoms, hold and exercise original jurisdiction in all maritime causes and proceedings, civil and criminal, including such as may apply to persons residing furth of Scotland, of the same nature as that heretofore held and exercised by the high court of admiralty. XXIII. That the finding of caution and using of arrestment heretofore

observed in the high court of admiralty, and all regulations relative thereto, may be enforced in the foresaid courts respectively; and maritime causes may be heard and determined by the sheriff according to the same modes and rules which are applicable in the sheriff court to causes not maritime, including the mode prescribed in an act passed in the tenth year of the reign of his late Majesty king George the fourth, 10 G. 4, c. 55. intituled An Act for the more effectual Recovery of Small Debts, and for diminishing the Expences of Litigation in Causes of small Amount, in the Sheriff Courts in Scotland; and the sentences, interlocutors, and decrees pronounced by sheriffs in maritime causes shall be subject to review by the courts of session and justiciary respectively, in the same way and manner in which sentences, interlocutors, and decrees of sheriffs in similar causes not maritime are subject to review at present, and not otherwise: Provided always, That it shall not be competent to the sheriff to try any crime committed on the seas of a nature which it would not be competent for that judge to try if the crime had been committed on land.

XXIV. That where counties are separated from each other by a river. or by a firth or estuary, the sheriffs of the counties adjoining to the sides thereof shall have a cumulative jurisdiction over the whole intervening space so occupied by water: Provided always, That the pursuer of all civil causes shall, where such cumulative jurisdiction applies. bring the cause before the sheriff of that county within which the defender may reside; and it is provided, that where there are several defenders in the same cause, residing in different counties, the same rules shall apply in regard to the citation of the whole of such defenders before the same sheriff court, which are observed in similar circumstances with respect to causes not maritime; and it is provided farther, that sheriffs shall respectively have nower to remit such causes from their own court to that of another sheriff ob Contingentiam, or for other 1 W. 4, c. 69. sufficient cause.

XXV. That from and after the commencement of this act, the office Office of judge of the judge admiral shall be and the same is hereby abolished, as also admiral abothe offices of all clerks and officers belonging to that court; and it is lished. hereby provided, that all actions and proceedings which shall be de- Provision for pending on the said fifth day of October before the high court of admiralty depending shall be transferred to the sheriff of any court wherein such action and actions. proceeding might have originated if this act had been passed previously to the commencement of such actions or proceedings, and the same shall thereupon be heard and determined in the same manner as if they had been brought before such sheriff in the first instance; and as soon as conveniently may be after the said fifth day of October, the processes in all such depending actions shall be transmitted accordingly to such sheriff by the clerk of the high court of admiralty, together with an inventory made by the said clerk, to the accuracy whereof he shall make oath if required: Provided always, That if any doubt shall arise touching the transmission of any such process, it shall be competent to the clerk of the high court of admiralty, or to any party in any such cause, to apply to the lord ordinary on the bills, who shall give directions thereupon, and whose directions shall be final; and provided also, that when the parties to any such cause shall, previously to such transmission, give in a joint note to the said clerk, setting forth their wish that such cause should proceed in the court of session instead of being so transferred to the sheriff, and shall therein specify the lord ordinary by whom they are desirous that such cause should be decided, the clerk of the high court of admiralty shall thereupon transmit the process, together with the said note, to one of the principal clerks of session, and such cause shall be inrolled before such lord ordinary, and shall thereafter be heard and determined in the same way as if such cause had been instituted in the court of session in terms of this act.

XXVI. That as soon as conveniently may be after the fifth day of Provision as to October next after the passing of this act, all other processes, records, other processes. and warrants of decrees, together with an inventory thereof made by the admiralty clerk, which he is hereby required to make, and to make oath to the accuracy thereof if required, shall be transmitted to the general register house at Edinburgh.

XXVII. That the sheriff clerks of the several counties of Scotland Sheriff clerks shall respectively act as clerks to the sheriffs in maritime causes: Pro- to act as clerks vided always, That neither that officer, nor any other person appointed to sheriffs in to any office, or acquiring right to any fees or emoluments in virtue of maritime the provisions of this act, shall be entitled to prefer any claim to compensation in consequence of the subsequent abolition of such office or fees, or of any alteration therein.

XXVIII. That it shall and may be lawful for all persons entitled, be Procurators fore the passing of this act, to conduct causes as procurators before the in admiralty high court of admiralty in Scotland, and all such persons are hereby au-court. thorized, during their respective lives, to conduct, as agents before the court of session, all or any causes and proceedings whatsoever which are or may be competently heard and determined in that court.

XXIX. That all inferior admiralty jurisdiction, not dependent upon As to inferior the high court of admiralty, shall continue as heretofore, but the judg- admiralty jurisments of such courts shall be subject to review solely in the courts of diction. session and justiciary respectively: Provided always, that nothing herein contained shall extend or be construed to extend to lessen or take away any salary or allowance now payable to the sheriff substitute of the district of the town of Leith by the commissioners of police of the said town, but the same shall continue to be paid as heretofore.

XXX. That so much of an act passed in the fourth year of the reign of Each of the his late Majesty king George the fourth, intituled An Act for the Regu- sheriffdoms of lation of the Court of the Commissaries of Edinburgh, and for altering and Edinburgh,

General Courts of Common Law, Court Houses, Judges. [Part IV.

No. II. Haddington, and Linlithgow to constitute a commissariot.

Jurisdiction of commissary court of Edinburgh restricted.

Actions of aliment.

Consistorial actions to be court of session.

Transmission of consistorial processes.

Regulation as to causes transmitted.

Regulations in regard to consistorial actions.

As to trial of jury.

Regulations as to proofs.

Incorporated solicitors of Edinburgh may conduct causes before e court of tion.

regulating the Jurisdiction of inferior Commissaries in Scotland, as pro-1 W. 4, c. 69. vides that the sheriffdoms of Edinburgh, Haddington, and Linlithgow shall be the commissariot of Edinburgh, be repealed; and that the commissariot of Edinburgh shall comprehend only the sheriffdom of Edinburgh; and it is hereby provided, that the sheriffdoms of Haddington and Linlithgow shall each constitute a commissariot, and that the whole other provisions of the said recited act shall apply to the said sheriffdoms of Haddington and Linlithgow in the same way in all respects as the same apply to the other sheriffdoms of Scotland where the sheriff is commissary.

XXXI. That the commissary court of Edinburgh shall possess and exercise the same and no other jurisdiction in the sheriffdom of Edinburgh than that possessed and exercised by sheriffs being commissaries in other sheriffdoms of Scotland; and that any jurisdiction of a more extensive nature heretofore possessed or exercised by the commissary court of Edinburgh shall entirely cease, save and except such as may regard the granting of confirmation of testaments of persons dying furth of Scotland, having personal property in Scotland, which jurisdiction is

hereby reserved to the said court.

XXXII. That actions of aliment may be instituted, heard, and deter-

mined in any sheriff court of Scotland.

XXXIII. That all actions of declarator of marriage, and of nullity of marriage, and all actions of declarator of legitimacy and of bastardy, and instituted in the all actions of divorce, and all actions of separation a mensa et thoro, shall be competent to be brought and insisted on only before the court of session.

> XXXIV. That all such actions which shall be depending before the commissary court at the commencement of this act, shall be transmitted to the lord president of the court of session: Provided always, that where a proof shall have been allowed by the said court of the commissaries previously to the commencement of this act, such proof shall be concluded before such action shall be transmitted as herein directed.

> XXXV. That the lord president shall remit all causes so transmitted to such lord ordinary as he may think fit for preparation and judgment; and the judgments of the lords ordinary, in these and in all other actions of the same description instituted in the court of session, shall be subject to the review of the division of the court to which the lord ordinary may belong, in the same way as in other civil causes.

> XXXVI. That the lord ordinary shall in all actions of divorce administer the usual oath of calumny to the pursuer; and no decree or judgment in favour of the pursuer shall be pronounced in any of the consistorial actions herein-before enumerated, whether appearance shall or shall not be made for the defendant, until the grounds of action shall be

substantiated by sufficient evidence.

XXXVII. That such causes shall not be appropriate to trial by jury, such causes by but it shall be competent to either division of the court of session, or to a lord ordinary after advising with the division of the court to which he belongs, to direct that any such cause, or any issue or issues of fact connected therewith, be tried by jury; and it is hereby provided, that in the swearing of witnesses in consistorial causes, the same oath shall be administered that is in use in the other courts of justice in Scotland.

XXXVIII. That when a proof in any such cause shall be directed to be taken by commission, the remit to take such proof shall be made to the commissary court of Edinburgh, which court, or any judge thereof, shall take such proofs accordingly, and no judge thereof shall receive any additional remuneration on that account.

XXXIX. That it shall and may be lawful for the incorporated solicitors practising before the consistorial court of Edinburgh previous to the passing of this act, and they and each of them are and is hereby authorized and empowered, during their respective lives, to conduct, as agent or agents before the court of session, all or any causes or proceedings, such as have heretofore been carried on before the court of the Class 1.] General Courts of Common Law, Court Houses, Judges.

commissaries of Edinburgh, which may hereafter be proceeded in, heard, or determined before the court of session.

No. 11. 1 W. 4, c. 69.

XL. That summonses in maritime and consistorial causes instituted in the court of session shall be signed by one of the principal or depute Agency fees, clerks of session, and it shall not be necessary that any such summons &c. should pass the signet, or require any concurrence for the public interest; and it is provided, that for conducting such causes in the court of session no agent shall be entitled to a higher rate of charge for any part of such duty than such as would have been legally exigible for the same duty in the high court of admiralty, or in the court of the commissaries of Edinburgh respectively, before the passing of this act; and no fee or demand on account of the fee fund of the court of session, or on account of any clerk or officer in that court, shall be due or exigible in any such cause.

XLI. That when vacancies occur in the offices of the judges of Offices of the the commissary court of Edinburgh, such vacancies shall not be filled commissaries up, and as soon as vacancies shall occur in the whole of such offices, abolished. the said court shall be entirely abolished, and the whole powers and jurisdiction, as then competent to the said court, shall thereupon be transferred to the sheriff of the county of Edinburgh, who shall exercise such jurisdiction in all respects, and the provisions of the before-recited act, passed in the fourth year of the reign of his late Majesty king George the fourth, shall apply to the sheriffdom of Edinburgh, in the same way as such provisions apply to the other sheriffdoms of Scotland; and it is provided, that when, in consequence of vacancies in the said offices, the number of the commissaries of Edinburgh shall be reduced to one, it shall be lawful for his Majesty's principal secretary of state for the home department to appoint, from time to time, such number of persons, being sheriffs depute of counties, as he shall think fit, to take proofs in consistorial causes, which duty the persons so appointed shall perform, but without prejudice to the said remaining commissary also performing the same; and the said persons shall not receive any remuneration on account of such duty from any party in any such cause.

XLII. That as vacancies shall occur in the office of baron of the court Two barons of of exchequer in Scotland, the same shall not be filled up until the num- the court of ber of such barons shall be reduced, so that the said court shall consist exchequer to only of the lord chief baron and of one baron of exchequer; and it is be reduced. hereby provided, that it shall be competent to these judges, and to either of them, in the absence of the other, to exercise the whole jurisdiction and powers of the court of exchequer, any law or practice to the contrary notwithstanding: Provided always, that after the number of the judges shall be so reduced, it shall be competent to the said court, when deemed expedient, to require of the lord president of the court of session that one judge of that court shall be directed to attend the court of exchequer; and on receiving such requisition, one of the ordinary judges of the court of session shall attend the said court of exchequer, and shall have voice and vote in all matters then to be brought before the said court, in the same way in all respects as if such judge were a baron of the court of exchequer.

XLIII. That the lord chief commissioner and the other lords com- Judges of jury missioners of the jury court, and the judge of the high court of admi-court and adralty in Scotland, shall, notwithstanding the abolition of these several miralty to concourts, continue to receive, during their respective lives, the salaries tinue to receive payable to them at the time of the passing of this act.

XLIV. That the several sums of seven thousand pounds, two thou- Certain paysand four hundred pounds, and one thousand two hundred pounds, ments on acauthorized by the before recited acts to be annually paid on account of count of jury the jury court, shall cease, save and except so much thereof as shall be courts to cease. certified by the lord president of the court of session to be requisite to be applied in defraying the expences attending the circuits of such of the judges of the court of session as are not judges of the court of justiciary, and of clerks and macers, the application of which sum shall be

General Courts of Common Law, Court Houses, Judges. [Part IV.

No. II.

1 W. 4, c. 69.

Payment of salaries of judges, &c.

accounted for in the court of exchequer in Scotland; and it is hereby provided, that the salaries of the judges, clerks, and macers, hitherto paid from the aforesaid sums, shall be paid, by order of the said court of exchequer, out of the monies charged or made chargeable by the acts passed in the seventh and tenth years of the reign of her Majesty queen Anne, with the fees, salaries, and other charges allowed or to be allowed for keeping up the courts of session, justiciary, or exchequer, in Scotland.

Compensation to be made to clerks, &c.

XLV. That it shall and may be lawful for any clerk or other officer holding his office at the passing of this act, and entitled to compensation for loss to be suffered through the operation and effect of this act, to make application to the court of exchequer in Scotland, which court shall direct intimation thereof to be given to his Majesty's advocate in behalf of the public; and thereafter the said court shall inquire into and consider the circumstances of the case, and shall award to every such person such compensation as the court shall think such persons entitled to, either by the payment of a gross sum or by way of annuity, as the court shall think proper: Provided always, That every order made for such compensation shall set forth the nature of the office, the grounds on which compensation is prayed, and on which the award may be founded; and that a copy of every such order shall be laid before parliament within two calendar months after the commencement of the session next ensuing after making the same; and no such decision of the said court shall be final and conclusive until two calendar months after a copy of the order of such court for compensation shall have been so laid before parliament; and any sum of compensation so to be awarded shall be paid and payable upon the order of the said court of exchequer, in such manner and at such time or times as the court shall direct, out of the aforesaid monies charged or made chargeable by the aforesaid acts passed in the seventh and tenth years of the reign of her Majesty queen Anne, and every sum of compensation shall be clear of all taxes and deductions whatsoever.

Orders for compensation to be laid before parliament.

Commencement of act. XLVI. That the whole provisions of this act, unless where otherwise herein specially provided, shall commence and take effect from and after the fifth day of October next after the passing of this act.

SCHEDULE to which this Act refers.

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lass I.]	Gen	eral Cour	rts of Con	13.77\$ (m Law, Co	urt Houses, Ju	lge.	F.
Second Dyvision.	First Division.					Names of Lords Ordinary.		RETURN of the
		above Year.	Z			Number of Causes for the first Time involled before each Lord Ordinary.		RETURN of the Number of Causes the let Day of January 18
		paged as matters of form from such as bays been followed by Litigation.	Number of incidental and summary Applications			Number of Decrees		·
		Intervention of a	Number of	INNER HOUSE.		Number of Final Judgments pronounced in litigated Causes.	OUTER HOUSE.	in the Court of Sec of Causes ready fo
			Number of Causes tried by Jury.			Number of Causes ready for Debate, but not beard; with the Date when the first of these Causes was first inrolled in the Debate Roll.	SE.	instituted and decided in the Court of Session in Scotland, between the 1st Day of January 18; shewing the Number of Causes ready for Judgment, but not disposed of at the last of these day
		so ready, and distinguishing those to be tried by Jury from such as are not to be so tried.	Number of Causes ready for Judgment on hearing Counsel or otherwise; with the Date when the first of such Courses was			Number of Causes at Avisandum.		nstituted and decided in the Court of Session in Scotland, between the let Day of January 18 shewing the Number of Causes ready for Judgment, but not disposed of at the last of these dates
	Observations.					Observations		nary 18 and ose dates.

CC

A. B., Lord President.

[No. III.] 1 W. IV. c. 70.—An Act for the more effectual Administration of Justice in England and Wales.

[23rd July 1830.]

Puisne judges to sit in rotation; but not less than three at a time in banc.

WHEREAS the appointment of an additional puisne judge to each of his Majesty's superior courts of common law would cause much greater facility and dispatch of business therein: And whereas it is expedient to put an end to the separate jurisdiction for the county palatine of Chester and the principality of Wales, and to make more effectual provision for the administration of justice in England and Wales; be it therefore enacted, &c., That whenever his Majesty shall be pleased to appoint an additional puisne judge to either of his courts of the king's bench, the common pleas, and the exchequer, the puisne judges of such court shall sit by rotation in each term, or otherwise, as they shall agree amongst themselves, so that no greater number than three of them shall sit at the same time in banc for the transaction of business in term, unless in the absence of the lord chief justice or lord chief baron; and that it shall and may be lawful for any one of the judges of either of the said courts, when occasion shall so require, while the other judges of the same court are sitting in banc, to sit apart from them for the business of adding and justifying special bail, discharging insolvent debtors, administering oaths, receiving declarations required by statute, hearing and deciding upon matters on motion, and making rules and orders in causes and business depending in the court to which such judge shall belong, in the same manner and with the same force and validity as may be done by the court sitting in banc.

Salaries to additional judges.

II. That from and after the appointment of any such additional judge there shall be issued and paid and payable out of and charged upon the consolidated fund of the united kingdom of Great Britain and Ireland (after paying or reserving sufficient to pay all such sums as have been directed by any former act of parliament to be paid out of the same, but with preference to all other payments which shall hereafter be charged upon the same), the sum of five thousand pounds to such additional judge as he shall be so appointed, as and for a yearly salary, to be paid from time to time quarterly, free and clear from all taxes and deductions whatsoever, on the fifth day of January, the fifth day of April, the fifth day of July, and the tenth day of October, by equal portions, the first payment to be made on the first of such days respectively as shall occur after the appointment of the judge entitled to receive the same; and that if any person hereafter appointed to such office shall die, or resign the same, the executor or administrator of the person so dying, or the person so resigning, shall be entitled to receive such proportionable part of the salary aforesaid as shall have accrued during the time that such person shall have executed such office since the last payment, and that the successor of any such person so dying or resigning shall be entitled to receive such portion of the salary as shall be accruing or shall accrue from the day of such death or resignation: Provided always, That the removal of a puisne judge from one court to another shall not be deemed a new appointment under this act.

Retirement allowances to additional judges.

III. That upon the resignation of any such additional judge it shall be lawful for his Majesty, by his letters patent under the great seal of Great Britain, to give and grant to the person so resigning (under and subject to the same conditions, limitations, and restrictions as any annuity on resignation can now by law be granted to any other judge of the same court) an annuity during his life not exceeding the sum of three thousand five hundred pounds yearly, or such other sum as shall by any act hereafter to be made provided for judges resigning their offices to be paid and payable out of and charged upon the consolidated fund aforesaid, free and clear of all taxes and deductions whatsoever, by even quarterly payments to be made respectively on the days aforesaid in each year.

Additional adges may

IV. That every judge of the said courts, to whatever court he may

belong, shall be and he is hereby accordingly authorized to sit in London . No. III. and Middlesex for the trial of issues arising in any of the said courts, 1 W 4, c. 70 and to transact such business at chambers or elsewhere, depending in any of the said courts, as relates to matters over which the said sit in London courts have a common jurisdiction, and as may, according to the course and Westminand practice of the court, be transacted by a single judge. (1)

V. That a certain act passed in the third year of the reign of his late Repeal of Majesty king George the fourth, intituled An Act to repeal an Act of the Act 3, G. 4, First and Second Years of His present Majesty, for facilitating the Dis- c. 102. patch of Business in the Court of King's Bench, and to make further Provision in lieu thereof, shall be and the same is hereby repealed, except so far as it repeals the said former act, and except so far as relates to the

last warrant issued by his said late Majesty under the said act.

VI. That in the year of our Lord one thousand eight hundred and Terms altered. thirty-one, and afterwards, Hilary term shall begin on the eleventh and end on the thirty-first day of January; Easter term shall begin on the fifteenth day of April and end on the eighth day of May; Trinity term shall begin on the twenty-second day of May and end on the twelfth day of June; and Michaelmas term shall begin on the second and end on the twenty-fifth day of November; and that the essoign and general return days of each term shall, until further provision be made by parliament, (2) be as follows; that is to say, the first essoign or general return day for every term shall be the fourth day before the day of the commencement of the term, both days being included in the computation; the second essoign day shall be the fifth day of the term; the third shall be the fifteenth day of the term; and the fourth and last shall be the nineteenth day of the term, the first day of the term being already included in the computation; with the same relation to the commencement of each term as they now bear, and shall be distinguished by the day of the term on which they respectively fall, the Monday being in all cases substituted for the Sunday when it shall happen that the day would fall on Sunday, except always that in Easter term there shall be but four returns instead of five, the last being omitted; provided that if the whole or any number of the days intervening between the Thursday before and the Wednesday next after Easter day shall fall within Easter term, there shall be no sittings in banc on any of such intervening days, but the term shall in such case be prolonged and continue for such number of days of business as shall be equal to the number of the intervening days before mentioned ex-

an equal number of days of business. VII. That when the alteration of the terms herein-before mentioned Limiting the shall take effect not more than twenty-four days, exclusive of Sundays, time for sitafter any Hilary, Trinity, and Michaelmas term, nor more than six days, tings. exclusive of Sundays, after any Easter term, to be reckoned consecutively immediately after such terms, shall be appropriated to sittings in London and Middlesex for the trial of issues of fact arising in any of the said courts; provided that if any trial at bar shall be directed by any of the said courts, it shall be competent to the judges of such court to appoint such day or days for the trial thereof as they shall think fit; and the time so appointed, if in vacation, shall for the purpose of such trial be deemed and taken to be a part of the preceding term; provided also, that a day or days may be specially appointed, at any time not being within such twenty-four days, for the trial of any cause at

clusive of Easter day, and the commencement of the ensuing Tripity term shall in such case be postponed, and its continuance prolonged for

⁽¹⁾ The words "common jurisdiction" must be understood with reference to the subject matter of the application, and not with reference to the court itself; Phillips v. Drake, 2 Dowl. P. C. 45.

⁽²⁾ See post, 1 W. 4, c. 3, repealing the above provisions as to the essoign and general return days.

nisi prius, with the consent of the parties thereto, their counsel or No. III. 1 W. 4, c. 70. attornies.

Judgments to felonies upon record during the sittings, herein is excepted.

IX. That upon all trials for felonies or misdemeanors upon any record of the court of king's bench, judgment may be pronounced during the be pronounced sittings or assizes by the judge before whom the verdict shall be taken, in all trials for as well upon the person who shall have suffered judgment by default or confession, upon the same record, as upon those who shall be tried and convicted, whether such persons be present or not in court, excepting only where the prosecution shall be by information filed by leave of the court of king's bench, or such cases of informations filed by his Majesty's attorney general wherein the attorney general shall pray that the judgment may be postponed; and the judgment so pronounced shall be indorsed upon the record of nisi prius, and afterwards entered upon the record in court, and shall be of the same force and effect as a judgment of the court, unless the court shall, within six days after the commencement of the ensuing term, grant a rule to show cause why a new trial should not be had or the judgment amended; and it shall be lawful for the judge before whom the trial shall be had either to issue an immediate order or warrant for committing the defendant in execution, or to respite the execution of the judgment, upon such terms as he shall think fit, until the sixth day of the ensuing term; and in case imprisonment shall be part of the sentence, to order the period of imprisonment to commence on the day on which the party shall be actually taken to and confined in prison.

Jurisdiction of courts at Westminster extended to counties palatine, &c.

XIII. That from and after the commencement of this act his Majesty's writ shall be directed and obeyed, and the jurisdiction of his Majesty's courts of king's bench, common pleas, and exchequer respectively, and of the several judges and barons thereof, shall extend and be exercised over and within the county of Chester and the county of the city of Chester, and the several counties in Wales, in like manner, to the same extent, and to and for all intents and purposes whatsoever as the jurisdiction of such courts respectively is now exercised in and over the counties of England not being counties palatine, any statute heretofore passed to the contrary notwithstanding; and that all original writs to be issued into the said several counties of Chester, city of Chester, and Wales, shall be issued by the cursitors for London and Middlesex, and the process and proceedings thereon shall be issued by and transacted with such of the officers of the several courts of king's bench and common pleas as shall be named for that purpose by the chief justice of such courts respectively, each naming for his own court.

Present juristies palatine and principality of Wales to cease.

Suits to be transferred.

XIV. That all the power, authority, and jurisdiction of his Majesty's diction of coun- court of session of the said county palatine of Chester, and of the judges thereof, and of his court of exchequer of the said county palatine, and of the chamberlain and vice chamberlain thereof, and also of his judges and courts of great sessions, both in law and equity, in the principality of Wales, shall cease and determine at the commencement of this act; and that all suits (1) then depending in any of the said courts, if in equity, shall be transferred, with all the proceedings thereon, to his Majesty's court of chancery or court of exchequer, as the plaintiff or (in default of his making choice before the last day of next Michaelmas term) as any defendant shall think fit, and if in law, to the court of exchequer, there to be dealt with and decided according to the practice of those courts respectively, or of the courts from whence the same shall be transferred, according to the discretion of the court to which the

⁽¹⁾ Upon the plea of nul tiel record to a declaration in scire facias in the exchequer, on a judgment obtained in the court of great sessions in Wales before the passing of this act, the plaintiff was held entitled to the judgment of the court, upon producing the certificate and affidavit of the record being in the hands of the officer, in pursuance of the rules of M. T. I W. 4, though the actual judgment is not in court; Howell v. Brown, 3 Dowl. 805.

same shall be transferred; which court shall, for the purpose of such suits only, be deemed and taken to have all the power and jurisdiction, 1 W. 4, c. 70. to all intents and purposes, possessed before the passing of this act by 🕒 the court from whence such suit shall be removed.

XV. Provided always, That nothing in this act contained shall be con- Not to affect strued to abolish or affect the obligations and duties or the jurisdiction the rights of or rights now lawfully imposed upon, performed, or claimed and exer- the corporation cised by the mayor and citizens of Chester in the courts of the county of of Chester. the city of Chester or otherwise, save and except that such writs of error or false judgment as may now by any charter or usage of the said corporation be brought upon the judgments of the said courts or any of them before any of the courts abolished by this act, shall hereafter be issued, as in other cases, from inferior courts, and be returnable into his Majesty's court of king's bench.

XIX. That from and after the time herein appointed for the com- Assizes to be mencement of this act assizes shall be held for the trial and dispatch of held in Chester all matters, criminal and civil, within the county of Chester and the and Wales. several counties and county towns in the principality of Wales, under and by virtue of commissions of assize, over and terminer, gaol delivery, and other writs and commissions, to be issued in like manner and form as hath been usual for the counties in England; and all laws and statutes now in force relating to the execution of such commissions, when issued for counties in England, shall extend and be applied to the execution of the commissions issued for the county of Chester and the counties of Wales under the authority of this act.

XX. That, until it shall be otherwise provided by law, one of the two Mode of holdjudges appointed to hold the sessions of assizes under his Majesty's ing assizes in commission within the county of Chester and principality of Wales Chester and shall, in such order and at such times as they shall appoint, proceed to Wales until his hold such assizes at the several places where the same have heretofore Majesty shall been most usually held within South Wales; and the other of such otherwise judges shall proceed to hold such assizes at the several places where the direct. same have heretofore been most usually held in North Wales; and both of such judges shall hold the assizes in and for the county of Chester in like manner as in other counties of England.

XXIII. That the salaries of the judges of the county palatine of Upon termina-Chester, and of the judges of the several courts of great sessions in the tion of office of principality of Wales, shall, upon the termination of the said offices Welsh judges, respectively, make part of the consolidated fund of the united kingdom of Great Britain and Ireland, and a sum equal to the amount of each such salary shall be retained in the exchequer as part of the consolidated of consolidated fund, and no part thereof shall be issued or carried to the account of fund. the civil list; any thing in any act or acts of parliament to the contrary

notwithstanding.

XXIV. And whereas it is expedient that due provision should be Compensation made for the compensation of the judges herein-after mentioned, and of to Welsh other persons having a freehold in their offices in the county of Chester judges on or principality of Wales, for the losses they may sustain by the abolition abolition of of their offices or reduction of their fees by virtue of this act; be it their offices. therefore enacted, That from and after the commencement of this act there shall be issued, paid, and payable, out of and charged upon the consolidated fund of the united kingdom of Great Britain and Ireland, (after paying or reserving sufficient to pay all former charges thereon, but in preference to any charge hereafter to be made,) to Thomas Jervis esquire, now one of his Majesty's justices of the Chester circuit, the sum of one thousand and fifteen pounds twelve shillings; to Jonathan Raine esquire, now his Majesty's chief justice of the North Wales circuit, the sum of one thousand pounds; and to Robert Matthew Casberd esquire, one of his Majesty's judges of the Brecon circuit, the sum of one thousand pounds; the said several sums to be payable and paid, free and clear from all taxes and deductions whatsoever, by even portions, on the fifth days of January, April, and July, and the tenth day

their salaries to be retained, and form part

General Courts of Common Law, Court Houses, Judges. [Part IV.

No. III.

of October, in each year, the first payment thereof to commence and be 1 W. 4, c. 70. made on the first of such days as shall occur after the commencement of this act; and the said annuities respectively to continue during the lives of the parties respectively entitled to receive the same, or until such time as they may respectively be appointed by his Majesty to any other place or office the salary or emoluments of which shall be of equal or greater amount than the said annuities respectively, or in case the salary or emolument of such office shall be of less yearly amount than the annuity which the party appointed to such office is entitled by this act to receive, then the said annuity to be abated and reduced in proportion to the amount of such salary or emoluments, so as to make the whole sum received by the party equal to, but not exceeding, the amount of such annuity.

Compensations to persons affected by abolition of the courts of Wales and Chester.

XXV. That there shall in like manner, after the commencement of this act, be issued, paid, and payable out of and charged upon the said consolidated fund, (after paying and reserving as aforesaid, and with such preference as aforesaid,) to the several persons having a freehold interest in such offices in the county of Chester or principality of Wales as shall be abolished or affected by virtue of this act, free and clear of all taxes and deductions whatsoever, such sums of money, at such times, by way of annuity or otherwise, as shall be adjudged and determined to be due to such persons respectively by any commission to be appointed by his Majesty or by virtue of any act of parliament, for the purpose of determining the amount of the compensation that ought to be due and payable in such cases; and that in the meantime and until compensation shall be awarded and determined in manner aforesaid, or the time shall have elapsed that may be appointed for claiming the same, it shall be lawful for the commissioners of his Majesty's treasury of the united kingdom of Great Britain and Ireland, or any three of them, to issue their warrants for the payment to such persons as aforesaid, out of the said consolidated fund, of such half-yearly or quarterly allowances as to the said commissioners shall seem reasonable, both as to the amount and times of payment, on account of such compensation as may thereafter be awarded to the said parties respectively.

Persons àppointed under certain restrictions, to the offices about to be abolished. not entitled to compensation.

XXVI. Provided always, That no person shall be entitled to such compensation or allowance as aforesaid, whose appointment to his office was qualified by any condition or reservation expressed in his patent or otherwise made known to such person, that such office or the emoluments thereof were to be held and enjoyed subject to any future provision to be made by parliament touching the same, or without any claim to compensation in case the same should cease or be subjected to any regulation: And provided also, That no person shall be entitled to receive any such compensation or allowance who shall not previously make a full and true statement to the said commissioners of his Majesty's treasury, to be verified on oath before a judge or master in chancery, if they shall think fit so to direct, of the amount of the salary, fees, and emoluments of such office, and of the disbursements and outgoings of the same, for the space of ten years before the passing of this act; and that such compensation or allowance shall cease altogether, or be reduced in amount, as the case may be, whenever the party entitled to receive the same shall be placed in any other public office of which the salary and emoluments shall be equal to the whole or to part of such compensation or allowance, so that in the last-mentioned case no person shall be entitled to receive more of such compensation or allowance than shall be equal to the difference between the full amount thereof and the amount of the salary and emoluments of the office in which he may be hereafter placed.

XXVII. That the records, muniments, and writings of the several Records of the courts abolished by this act shall, until otherwise provided by law, be several courts abolished to be kept by the same persons and in the same places as before the passing kept as bereto- of this act; and that the court of common pleas shall have the like

power and authority to amend the records of fines and recoveries passed No. III. heretofore in any of the courts abolished by this act, as if the same had 1 W. 4, c. 70. been levied, suffered, or had in the court of common pleas: Provided always, That in case of the death of any such person before any fore until otherother provision shall have been made for keeping such records, muni- wise provided ments, and writings, the custody thereof shall be with the clerks of for. the peace of the several counties to which counties the same shall respectively belong. (1)

XXVIII. That upon all fines which now are or before the commence- Proclamation ment of this act shall be duly acknowledged in Chester or Wales, pro- upon fines may clamation may be made at the successive assizes to be holden under his be made at Majesty's commission within the county of Chester and principality of assizes in Wales, before any judge of such assize, during the continuance of such Wales. his commission, in the same manner and form, and with the same force and effect, as if the same had been proclaimed before the justices of Chester and Wales, or any of them; any law or usage to the contrary

notwithstanding.

XXIX. That all fines and recoveries to be levied and suffered after Fines, &c. to the commencement of this act, of lands, tenements, or hereditaments in be levied in the county of Chester or county of the city of Chester or principality of Chester, &c. Wales, shall be levied and suffered in such and the like manner, and as in other the same officers shall be employed therein, as in the case of fines and counties of recoveries now levied or suffered of lands, tenements, or hereditaments

in any county of England not being a county palatine.

XXX. Provided always, That nothing in this act contained shall be Not to affect taken to affect the right of any lessee by patent under the crown, or of the rights of any pensioner or other person lawfully entitled to any portion of the lessees by money payable upon fines and recoveries of manors, lands, or tene-patent before ments in the county of Chester or principality of Wales, but that the the passing of same shall be paid and payable by the proper officer of the court of this act. common pleas who shall receive the same, to such lessee or other person, or his agent, in like manner and to the same extent as heretofore, during the continuance of his interest therein.

XXXI. That in all cases where any trust for charitable uses or of a Lord chancelpublic nature shall have been cast upon the judges of the courts hereby lor may appoint abolished, by virtue of their offices, it shall be lawful for the lord high trustees for chancellor or keeper of the seals for the time being, or for the judges of charitable uses assize upon their circuits in the county of Chester or principality of in lieu of Wales, to appoint such other trustee or trustees as they shall think fit, judges aboby any writing under their hands, in place of the former judge or judges: act. which trustee or trustees so named shall have the same power and authority, and be subject to the same rules and duties, as the trustee or

trustees for whom he or they may be substituted.

XXXII. That where by any law, charter, or usage any corporate or Officers to take other officer or person hath been accustomed or ought to take any oath the same oaths before any of the judges or other officers or in any of the courts before judges abolished by this act, such officer or person may and shall take the same hereby apoath before any judge during the assizes or in open court at the quar-pointed as they ter sessions in the county where such oath was formerly taken, and such judges of the oath being so taken shall have the same force and effect to all intents courts hereby and purposes as if taken before any of the judges or in any of the abolished. courts abolished by this act.

XXXIII. And whereas it is expedient that the accounts of the For passing sheriffs of the county of Chester and principality of Wales should be accounts of passed, as nearly as circumstances will admit, in the same manner as sheriffs of heretofore; be it enacted, That the clerk of assize, within ten days after county of the conclusion of the assizes in the county of Chester and in each county in Wales, shall make out a roll containing the names and places wales. of residence of all persons liable to the payment of any fines, issues,

No. III.

amercements, recognizances, compositions, or other sums imposed or 1 W. 4, c. 70. forfeited during the preceding assizes, with the sums set opposite to each name, and shall forthwith transmit the same to the sheriff, with an order upon the sheriff, signed in the name of one of the judges of assize, directing the sheriff to cause such sums to be levied and recovered from the parties liable to pay the same, which order shall be of the same force and efficacy, and be returnable to the same person or persons, as any writ or process heretofore issued to the sheriff for the like purpose; and the sheriff, upon the receipt thereof, shall proceed to levy the sums in the said roll mentioned, and shall be accountable for the same, and all arrears thereof, in the same manner, at the same time, and to the same officer, and shall pass his accounts before the same officer or officers, as he hath been heretofore accustomed. (1)

Attornies general of county of Chester and Wales to continue until his Majesty shall otherwise appoint.

XXXIV. That the several persons holding and exercising within the several counties of Chester and Wales the office of his Majesty's attorney general shall, until his Majesty's pleasure shall be otherwise declared, continue (within their several places and counties where they are now entitled to exercise such office) to have, in person only, and not by deputy, the same rank, name of office, and the same privileges, fees, and emoluments, which by any law or custom they have hitherto enjoyed and held within their respective counties, save and except such fees as would necessarily cease with the abolition of the courts and jurisdictions abolished by this act.

When quarter be held (2).

XXXV. And whereas the general quarter sessions of the peace are sessions are to now directed to be held in each year in the first week after the eleventh day of October, in the first week after the Epiphany, in the first week after the clause of Easter, and in the first week after the translation of St. Thomas the Martyr: And whereas it will be expedient that the times of holding the general quarter sessions of the peace should be altered in part; be it therefore enacted, That in the year of our lord one thousand eight hundred and thirty-one, and afterwards, the justices of the peace in every county, riding, or division for which quarter sessions of the peace by law ought to be held, shall hold their general quarter sessions of the peace in the first week after the eleventh day of October, in the first week after the twenty-eighth day of December, in the first week after the thirty-first day of March, and in the first week after the twenty-fourth day of June; and that all acts, matters, and things done, performed, and transacted at the times appointed by this act for the holding of the general quarter sessions of the peace shall be as valid and binding to all intents and purposes as if the same had been done, performed, and transacted at general quarter sessions of the peace holden at the times by law limited for the holding thereof before the passing of this act.

Landlords to recover possession of lands, &c. after notice of ejectment.

XXXVI. And whereas landlords, to whom a right of entry into or upon any lands or hereditaments may accrue during or immediately after Hilary and Trinity terms respectively, are at present unable to prosecute ejectments against their tenants, so as to try the same at the assizes immediately ensuing, whereby much delay is occasioned in the recovery of the possession of lands and tenements wrongfully withheld by tenants against their landlords; be it therefore enacted, That in all actions of ejectment hereafter to be brought in any of his Majesty's courts at Westminster by any landlord against his tenant, or against any person claiming through or under such tenant, for the recovery of any lands or hereditaments where the tenancy shall expire, or the right of entry into or upon such lands or hereditaments shall accrue to such landlord, in or after Hilary or Trinity terms respectively, it shall be

⁽¹⁾ The mode in which the accounts of sheriffs are to be passed is now regulated by the 3 & 4 W. 4, c. 99.

⁽²⁾ See the act for preventing the interference of the spring assizes with the April quarter sessions; post, Class IX.

No. III.

lawful for the lessor of the plaintiff in any such action, at any time within ten days after such tenancy shall expire or right of entry accrue 1 W. 4, c. 70. as aforesaid, to serve a declaration in ejectment entitled of the day next after the day of the demise in such declaration, whether the same shall be in term or in vacation, with a notice thereunto subscribed, requiring the tenant or tenants in possession to appear and plead thereto within ten days in the court in which such action may be brought; and proceedings shall be had on such declaration, and rules to plead entered and given, in such and the same manner, as nearly as may be, as if such declaration had been duly served before the preceding term: Provided always, That no judgment shall be signed against the casual ejector until default of appearance and plea within such ten days, and that at least six clear days notice of trial shall be given to the defendant before the commission day of the assizes at which such ejectment is intended to be tried; Provided also, That any defendant in such action may, at any time before the trial thereof, apply to a judge of either of his Majesty's superior courts at Westminster, by summons in the usual manner, for time to plead, or for staying or setting aside the proceedings, or for postponing the trial until the next assizes; and that it shall be lawful for the judge in his discretion to make such order in the said cause as to him shall seem expedient. (1)

XXXVII. That in making up the record of the proceedings on any Declaration to such declaration in ejectment it shall be lawful to entitle such declara- be entitled tion specially of the day next after the day of the demise therein, whe-specially. ther such day shall be in term or in vacation, and no judgment thereupon shall be avoided or reversed by reason only of such special title.

XXXVIII. That in all cases of trials of ejectments at nisi prius, when Writ of posa verdict shall be given for the plaintiff, or the plaintiff shall be non-session may suited for want of the defendant's appearance to confess lease, entry, issue on certior ouster, it shall be lawful for the judge before whom the cause shall tificate of be tried to certify his opinion on the back of the record that a writ of judge, &c. possession ought to issue immediately, and upon such certificate a writ of possession may be issued forthwith; and the costs may be taxed, and judgment signed and executed afterwards at the usual time, as if no such writ had issued: Provided always, That such writ, instead of reciting a recovery by judgment in the form now in use, shall recite shortly that the cause came on for trial at nisi prius at such a time and place and before such a judge, (naming the time, place, and judge,) and that thereupon the said judge certified his opinion that a writ of possession ought to issue immediately. (2)

XXXIX. That this act shall, as to all matters not otherwise provided Commencefor, commence and take effect upon and from the twelfth day of October ment of act. in this present year.

Where a sheriff's officer taking possession under a habere fucius possessionem is dispossessed before delivering possession to the lessor of the plaintiff, it is necessary, in applying for a fresh writ, that it should appear that the persons dispossessing are acting in concert with the defendant; Dos d.

Thompson v. Mirehouse, 2 Dowl. P. C. 200.

⁽¹⁾ This statute only applies to issuable terms; Doe v. Roe, 2 Cr. & Jer. 123; 1 Dowl. P. C. 304. S. C. And when a landlord's right of entry accrued on the day after the essoign day of Trinity term, it was held that he was not entitled to serve a declaration in ejectment as of that term; Doe v. Roe, 1 Dowl. 79; and it applies only to trials which would lie at the assizes, and not where the property is situate in London or Middlesex; Doe d. Norris v. Roe, 1 Dowl. 547.

It is no ground for setting aside a verdict for the plaintiff that he did not give six clear days' notice of trial, as required by the statute, the defendant having appeared and made his defence; Doe d. Antrobus v. Jepson, 3 B. & Ad. 402. Neither is it ground of defence at nisi prius that the action had not been commenced within ten days after the right of entry accrued, this being merely matter of irregularity; Doe d. Rankin v. Brindley, 4 B. & Ad. 84; 1 Nev. & M. 1. S. C.

⁽²⁾ These provisions for the issuing of a writ of habere facias possessionem are not affected by the 1 W. 4, c. 7 (see post, Part IV, Class 12); and it has been held that the judge has no discretion under it as to the time at which the lessor of the plaintiff shall have possession, but must either grant a certificate to enable him to get immediate possession, or let the case take its regular course; Doe d. Williamson v. Dawson, 4 Carr & P. 589; Doe d. Packer v. Hilliard, 4 Carr. & P. 132; Tidd's Supp. 1833, p. 198. But see Chitty's Archb. 4th edit. 638 n. (p.)

[No. IV.] 1 W. IV. c. 3.—An Act to amend an Act of the last Session, for the better Administration of Justice, so far as relates to the Essoign and General Return Days of each Term, and to substitute other Provisions in lieu thereof; and to declare the Law with regard to the Duration of the Terms in certain cases.

[23rd December 1830.]

1 W. 4, c. 70.

WHEREAS by an act passed in the last session of parliament, intituled An Act for the more effectual Administration of Justice in England and Wales, it was amongst other things enacted, That the essoign and general return days of each term should, until further provision be made by parliament, be as follows; that is to say, the first essoign or general return day for every term shall be the fourth day before the day of the commencement of the term, both days being included in the computation, the second essoign day shall be the fifth day of the term, the third shall be the fifteenth day of the term, and the fourth and last shall be the nineteenth day of the term, the first day of the term being already included in the computation, with the same relation to the commencement of each term as they now bear, and shall be distinguished by the day of the term on which they fall, the Monday being in all cases substituted for the Sunday when it shall happen that the day would fall on Sunday, except always that in Easter term there shall be four returns instead of five, the last being omitted: And whereas it is expedient to repeal so much of the said act as is herein recited, and to make other provisions in lieu thereof: Be it therefore enacted, &c., That so much of the said act as is herein-before recited shall be and the same is hereby repealed.

Repeal of so much of recited act as relates to the appointment of essoign days.

When writs are to be returnable.

II. That all writs now usually returnable before any of his Majesty's courts of king's bench, common pleas, or exchequer respectively, on general return days, that shall be made returnable after the first day of January in the year of our lord one thousand eight hundred and thirtyone, may be made returnable on the third day exclusive before the commencement of each term, or on any day, not being Sunday, between that day and the third day exclusive before the last day of the term; and the day for appearance shall, as heretofore, be the third day after such return, exclusive of the day of the return, or in case such third day shall fall on a Sunday, then on the fourth day after such return, exclusive of such day of return.

For removing doubts as to duration of terms.

III. And whereas it is expedient to remove all doubts that may exist as to the duration of the terms in any case that may occur; be it therefore declared and enacted, That in case the day of the month on which any term according to the act aforesaid is to end shall fall to be on a Sunday, then the Monday next after such day shall be deemed and taken to be the last day of the term; and that in case any of the days between the Thursday before and the Wednesday next after Easter shall fall within Easter term, then such days shall be deemed and taken to be a part of such term, although there shall be no sittings in banc on any of such intervening days.

For continuance and determination of actions, indictments, &c. which may have been deof the courts abolished by

IV. And whereas it is expedient to provide for the continuance and determination of all such real actions, indictments, and informations for criminal offences, and informations in the nature of quo warranto, as may have been depending in any of the courts abolished by the said act; be it therefore enacted, That all indictments and informations for criminal offences, and proceedings had thereon, depending in any of the pending in any said courts, shall, at the next general assize and over and terminer to be holden in and for the county in the court whereof the same may be depending, be, by the late prothonotary of the same court, or other the recited act; officer or person having the custody thereof, delivered to the clerk of

Class I.] General Courts of Common Law, Court Houses, Judges.

assize of the same county, and shall be proceeded with and heard and determined in the same manner as if the same had been commenced at 1 W. 4, c. 3. an assizes or over and terminer holden in the same county by or before any judges of assize or over and terminer in and for such county; and as also of that all writs of right and other real actions depending in any of the writs of right. said courts, and all pleas and proceedings thereon, shall, at the request either of the demandant or tenant, be forthwith transmitted by such prothonotary, or other officer or person having the custody thereof, into the office of the prothonotaries of his Majesty's court of common pleas, and shall be proceeded with and heard and determined in the said court of common pleas in the same manner as if the same actions had been commenced in that court; and that all informations in the nature of quo warranto, and pleas and proceedings thereon, depending in any of the said abolished courts, shall, at the request either of the relator or defendant, be transmitted by such prothonotary, or other officer or person having the custody thereof, into the crown office of his Majesty's court of king's bench, and be proceeded with and heard and determined in the said court of king's bench as if the same had been commenced in that court; and every such delivery and transmission shall be made, certified, and signed, without fee or reward, by the officer or person delivering or transmitting the same.

[By Section V., recoveries of lands might be suffered in the courts of the mayor of Chester, as heretofore; and fines levied on writs issued from the court of Chancery; and by Section VI., such fines might be reversed upon writ of error. Recoveries and fines are now however

abolished. See ante, Part II., Class 10.]

[No. V.] 1 & 2 W. IV. c. 31.—An Act to improve the Administration of Justice in Ireland. [5th October 1831.]

WHEREAS by an act passed in the first year of the reign of his present Majesty, intituled An Act for the more effectual Administration 1 W. 4, c. 70. of Justice in England and Wales, and also by an act passed in the last session of parliament, intituled An Act to amend an Act of the last Session, 1 W. 4, c. 3. for the better Administration of Justice, so far as relates to the Essoign and General Return Days of each Term, and to substitute other Provisions in lieu thereof, and to declare the Law with regard to the Duration of the Terms in certain Cases, certain specific days are fixed for the commencement and termination of each of the law terms respectively in that part of the united kingdom called England, and other regulations are made for the purpose of facilitating proceedings in certain actions; and it is expedient that similar provisions should be made with respect to Ireland; be it therefore enacted, &c., That in the year of our Lord one Alteration of thousand eight hundred and thirty-two, and afterwards, Hilary term terms. shall begin on the eleventh and end on the thirty-first day of January; Easter term shall begin on the fifteenth day of April and end on the eighth day of May; Trinity term shall begin on the twenty-second day of May and end on the twelfth day of June; and Michaelmas term shall begin on the second and end on the twenty-fifth day of November; and that in case any day heretofore mentioned for the commencement or the end of any term shall happen to fall on a Sunday, then the Monday next after such day shall be deemed and taken to be the first or last day of term respectively; provided that if the whole or any number of the days intervening between the Thursday before and the Wednesday next after Easter day shall fall within Easter term, such days shall be taken to be a part of such term, but there shall not be any sitting in banc on any of such intervening days, and the term shall in such case be prolonged and continue for such number of days of business as shall be equal to the number of intervening days before mentioned, exclusive of Easter day, and the commencement of the ensuing Trinity

396 General Courts of Common Law, Court Houses, Judges. [Part IV.

term shall in such case be postponed, and its continuance prolonged for 1 & 2 W. 4, an equal number of days of business.

c. 31.

II. That all writs now usually returnable before any of his Majesty's courts of king's bench, common pleas, or exchequer in Ireland respec-When writs to tively on general return days, that shall be made returnable after the be returnable. first day of January one thousand eight hundred and thirty-two, may be made returnable on the third day exclusive before the commencement of each term, or on any day, not being Sunday, between that day and the third day exclusive before the last day of term; and the day for appearance shall as heretofore be the third day after such return exclusive of the day of the return, or in case such third day shall fall on a Sunday, then on the fourth day after such return exclusive of such day of return.

Limitation of time for nisi prius sittings.

III. That when the alteration of the terms herein-before mentioned shall take effect, not more than twenty-four days, exclusive of Sundays, after any Hilary, Trinity, and Michaelmas term, nor more than six days, exclusive of Sundays, after any Easter term, to be reckoned consecutively immediately after such terms, shall be appropriated to sittings in Dublin for the trial of issues of fact arising in any of his Majesty's courts of king's bench, common pleas, or exchequer; provided that if any trial at bar shall be directed by any of the said courts, it shall be competent to the judges of such court to appoint such day or days for the trial thereof as they shall think fit; and the time so appointed, if in vacation, shall for the purpose of such trial be deemed and taken to be a part of the preceding term: Provided also, That a day or days may be specially appointed at any time, not being within such twenty-four days or six days respectively, for the trial of any cause at nisi prius, with the consent of the parties thereto, their counsel or attornies.

Judgments to be pronounced in all trials for felonies upon record during the sittings, save as herein excepted.

IV. That upon all trials for felonies or misdemeanors upon any record of the court of king's bench judgment may be pronounced during the sittings or assizes by the judge before whom the verdict shall be taken, as well upon any person who shall have suffered judgment by default or confession upon the same record, as upon any person who shall be tried and convicted, whether any such person respectively be present or not in court, excepting only where the prosecution shall be by information filed by leave of the court of king's bench, or such cases of information filed by his Majesty's attorney general wherein the attorney general shall pray that the judgment may be postponed; and the judgment so pronounced shall be indorsed upon the record of nisi prius, and afterwards entered upon the record in court, and shall be of the same force and effect as a judgment of the court, unless the court shall within six days after the commencement of the ensuing term grant a rule to show cause why a new trial should not be had or the judgment amended; and it shall be lawful for the judge before whom the trial shall be had, either to issue an immediate order or warrant for committing the defendant in execution, or to respite the execution of the judgment, upon such terms as he shall think fit, until the sixth day of the ensuing term, and in case imprisonment shall be part of the sentence, to order the period of imprisonment to commence on the day on which the party shall be actually taken to and confined in prison.

Judges may make rules relative to the practice of all the courts.

V. That in all cases relating to the practice of any of the courts of king's bench, common pleas, or exchequer, in matters over which the said courts have a common jurisdiction, or of or relating to the practice of the court of error, it shall be lawful for the judges of the said courts jointly, or any nine or more of them, including the chief of each court, to make general rules and orders for regulating the proceedings of all the said courts, which said rules and orders so made shall be observed in all of the said courts; and no general rule or order respecting such matters shall be made in any manner except as aforesaid.

VI. That bail may be justified before a judge in chambers, or in Justification of some other convenient place to be by him appointed, as well in bail before judge in chambers.

term as in vacation, and whether the defendant is actually in custody or not.

No. V. 1 & 2 W. 4.

VII. That a defendant who shall have been held to bail upon any mesne process issued out of any of his Majesty's superior courts of record may be rendered in discharge of his bail, either to the prison of Render in disthe court out of which such process issued, according to the practice of charge of bail, such court, or to the common gaol of the county in which he was so defendant not arrested; and the render to the county gaol shall be effectual in the being in manner following; (that is to say,) the defendant or his bail, or one of custody. them, shall for the purpose of such render obtain an order of a judge of one of his Majesty's superior courts of Dublin, and shall lodge such order with the gaoler of such county gaol, and a notice in writing of the lodgment of such order, and of the defendant's being actually in custody of such gaoler by virtue of such order, signed by the defendant or the bail, or either of them, or by the attorney or agent of any or either of them, shall be delivered to the plaintiff's attorney or agent; and the sheriff or other person responsible for the custody of debtors in such county gaol shall on such render so perfected be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such.

VIII. That a defendant who shall hereafter be in custody of the Render in disgaoler of the gaol of any county, or county of a city, or county of a charge of bail, town, by virtue of any proceeding out of any of his Majesty's superior where defendcourts of record, may be rendered in discharge of his bail in any other ant is in action depending in any of the said courts in the manner herein-before custody. provided for a render in discharge of bail; and the keeper of such gaol, or the sheriff or other person responsible for the custody of debtors as aforesaid, shall on such render be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from

liability as such.

IX. That in the year of our Lord one thousand eight hundred and Times of holdthirty-two, and afterwards, the general or quarter sessions of the peace ing quarter in and for every county (save and except the county of Cork) shall be sessions. held at the following times; (that is to say,) the Easter sessions on any of the fourteen days next after the twenty-fifth day of March; the summer sessions on any day between the fourth day and the twelfth day next after the last day of Trinity term, both days inclusive; the October sessions on any of the fourteen days next after the eighth day of October; and the Hilary sessions on any of the fourteen days next after the twenty-sixth day of December; and that all acts, matters, and things done, performed, and transacted at the times appointed by this act for the holding of the general or quarter sessions of the peace shall be as valid and binding to all intents and purposes as if the same had been done, performed, and transacted at general quarter sessions of the peace holden at the times by law limited for the holding thereof before the passing of this act.

X. That an act passed in the first and second years of his late Ma_Repeal of 1 & jesty's reign, intituled An Act to regulate the Times for holding the Gene- 2 G. 4, c. 62. ral Sessions of the Peace in the several Counties in Ireland, shall be and

the same is hereby repealed.

XI. That it shall and may be lawful for the chairman of the county Future sessions of Dublin, and the assistant barrister in each county (except the county to be appointed of Cork), at the general or quarter sessions to be held in such county at the Hilary next before each Hilary term, to fix and appoint the times for holding and every subthe next four sessions, of which times due notice shall be posted by the sequent year. clerk of the peace, as now by law required to be done, on the first day of February in each year, and also six weeks before the day of holding each sessions.

XII. And whereas landlords to whom a right of entry into or upon Landlords to any lands, tenements, or hereditaments may accrue during or imme-recover possesdiately after Hilary and Trinity terms respectively, are at present unable sion of lands: to prosecute ejectments against their tenants so as to try the same at &c. after notice

of ejectment.

General Courts of Common Law, Court Houses, Judges. [Part IV.

No. V. c. 31.

the assizes immediately ensuing, whereby much delay is occasioned in 1 & 2 W. 4, the recovery of the possession of lands and tenements wrongfully withheld by tenants against their landlords; be it therefore enacted, That in all actions of ejectment hereafter to be brought in any of his Majesty's courts at Dublin, by any landlord against his tenant, or against any person claiming through or under such tenant, for the recovery of any lands, tenements, or hereditaments, where the tenancy shall expire or the right of entry into or upon such lands, tenements, or hereditaments shall accrue to such landlord in or after Hilary or Trinity terms respectively, it shall be lawful for the lessor of the plaintiff in any such action, at any time within ten days after such tenancy shall expire or right of entry accrue as aforesaid, to serve a declaration in ejectment, entitled of the day next after the day of the demise in such declaration, whether the same shall be in term or in vacation, with a notice thereunto subjoined requiring the tenant or tenants in possession to appear and plead thereto within ten days in the court in which such action may be brought; and proceedings shall be had on such declaration, and rules to plead entered and given in such and the same manner, as nearly as may be, as if such declaration had been duly served before the preceding term: Provided always, That no judgment shall be signed against the casual ejector until default of appearance and plea within such ten days, and that at least six clear days notice of trial shall be given to the defendant before the commission day of the assizes at which such ejectment is intended to be tried; provided also, that any defendant in such action may at any time before the trial thereof apply to a judge of either of his Majesty's superior courts, by summons in the usual way, for time to plead, or for staying or setting aside the proceedings, or for postponing the trial until the next assizes; and that it shall be lawful for the judge, in his discretion, to make such order in the said cause as to him shall seem expedient.

Declaration to be entitled specially.

XIII. That in making up the record of the proceedings of any such declaration in ejectment it shall be lawful to entitle such declaration specially of the day next after or any other day after the day of the demise therein, whether such day shall be in term or in vacation; and no judgment thereupon shall be avoided or reversed only of such special title.

Writs of possession may

XIV. That in all cases of trials of ejectment at nisi prius, when a verdict shall be given for the plaintiff, or the plaintiff shall be nonsuited issue on judges' for want of the defendant's appearance to confess lease, entry or ouster, certificate, &c. and where no bill of exception or written objection signed by the defendant's counsel, or no certificate of such counsel that the defendant has a good defence in equity, shall have been tendered to the judge before whom the cause shall be tried, it shall be lawful for such judge to certify his opinion on the back of the record that a writ of possession ought to issue immediately; and upon such certificate a writ of possession may be issued forthwith, and the costs may be taxed, and judgment signed and executed afterwards at the usual time, as if no such writ had issued: Provided always, That such writ, instead of reciting a recovery by judgment in the form now in use, shall recite shortly that the cause came on for trial at nisi prius at such a time and place and before such a judge (naming the time, place, and judge,) and that thereupon the said judge certified his opinion that a writ of possession ought to issue immediately.

Writs of inquiry returnable on in writ.

XV. That any writ of inquiry of damages to be issued in or by any of the said courts, by whatever form of process the action may have any day named been commenced, may be made returnable and be returned on any day certain, in term or vacation, to be named in such writ, and such writ shall be as valid and effectual as if the same had been returnable according to the course of the common law, and thereupon at the return thereof a rule for judgment may be given, costs taxed, final judgment signed, and execution issued forthwith, unless the sheriff or other officer before whom the same may be executed shall certify under his hand upon such

Class I.] General Courts of Common Law, Court Houses, Judges.

writ that judgment ought not to be signed until the defendant shall have had an opportunity to apply to the court to set aside the execution of 1 & 2 W. 4, such writ, or one of the judges of the said courts shall think fit to order the judgment to be stayed until a day to be named in such order: Provided always, that in case the signing of judgment on such writ shall be postponed by reason of such certificate or order, or by the choice of the plaintiff, or otherwise, and judgment shall afterwards be signed thereon, such judgment shall be entered of record as of the day of the return of such writ, unless the court shall otherwise direct; and provided always, that notice of the holding of such inquiry shall have been given to the defendant, or if the defendant shall have appeared by attorney, to his attorney in said cause, eight days at least before the execution of such writ of inquiry.

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No. V. c. 31.

XVI. That in all actions brought in any of the said courts, by what- On certificate ever form of process the same may be commenced, it shall be lawful for of judge, after the judge before whom any issue joined in such action shall be to be verdict or nontried, in case the plaintiff or demandant therein shall become nonsuit, suit, judgment or a verdict shall be given for the plaintiff or demandant, defendant or and execution tenant, and when no exception or legal objection in writing, and signed may be entered by counsel, shall be taken to the opinion of such judge, to certify under his hand on the back of the record, at any time before the end of the sittings or assizes, that in his opiuion execution ought to issue in such action forthwith, or at some day to be named in such certificate, and subject, or not, to any condition or qualification, and in case of a verdict for the plaintiff, then either for the whole or for any part of the sum found by such verdict; in all which cases a rule for judgment may be given, costs taxed, and judgment signed forthwith, and execution may be issued forthwith or afterwards, according to the terms of such certificate, on any day in vacation or term; and the postea, with such certificate as a part thereof, shall and may be entered of record as of the day on which the judgment shall be signed, although the writ of distringas juratores, or habeas corpora juratorum, may not be returnable until after such day: Provided always, that it shall be lawful for the party entitled to such judgment to postpone the signing thereof.

XVII. That every judgment to be signed by virtue of this act may be Judgment so entered and recorded as the judgment of the court wherein the action signed may be shall be depending, although the court may not be sitting on the day of recorded as the the signing thereof; and every execution issued by virtue of this act Judgment of the shall and may bear teste on the day of issuing thereof; and such judg-court; ment and execution shall be as valid and effectual as if the same had been signed and recorded and issued according to the course of the common law; Provided always, that notwithstanding any judgment signed but the court or recorded or execution issued by virtue of this act, it shall be lawful may order it to for the court in which the action shall have been brought to order such be vacated. judgment to be vacated and execution to be stayed or set aside, and to enter an arrest of judgment, or grant a new trial or new writ of inquiry, as justice may appear to require; and thereupon the party affected by such writ of execution shall be restored to all that he may have lost thereby, in such manner as upon the reversal of a judgment by writ of

error, or otherwise, as the court may think fit to direct.

XVIII. Provided always, That no taxing officer of any of the said Attendance of courts shall, for the purpose of taxing costs on any judgment to be taxing officer. signed by virtue of this act, be compelled to attend at any time between the last day of August and the twenty-first day of October in any year.

XIX. That so much of an act passed in the first and second years of Repeal of 1 & 2 the reign of his late Majesty king George the fourth, intituled An Act G. 4, c. 59, s. for the Relief of Insolvent Debtors in Ireland, as enacts that no prisoner 50, as to the against whom any commission of bankrupt shall have issued and shall time for disremain in force, and who shall not have obtained a certificate of his or charge of unher conformity to the several statutes concerning bankrupts under such certificated commission, shall be entitled to be discharged by virtue of that act from bankrupts.

General Courts of Common Law, Court Houses, Judges. [Part IV.

No. V. 1 & 2 W. 4, c. 31.

Persons who have been declared bankrupt and not obtained their certificates shall not be entitled to the benefit of this certain cases.

any debt for which such prisoner shall be detained in custody, and which might have been proved under such commission, unless such prisoner shall have been detained in prison for the space of three years before the time when such prisoner shall apply for his or her discharge under that act, shall be and the same is hereby repealed.

XX. That no person petitioning the court for relief of insolvent debtors for relief under any act relating to insolvent debtors in Ireland, who shall have been duly declared bankrupt before the commencement of his or her imprisonment under any commission remaining in force, and shall not have obtained his or her certificate under such commission, shall be entitled to the benefit of any such act within the space of three years after such declaration of bankruptcy, unless three fourths in number and value of the creditors against whom act within three such person shall seek to be discharged by virtue of such act or acts years, except in shall signify their assent to such discharge, or it shall be made to appear to the satisfaction of such court, or of a commissioner thereof on his circuit, that such person has since such declaration of bankruptcy endeavoured by industry and frugality to pay all just demands upon him or her, and has incurred no unnecessary expence, and that the debts which such person has incurred subsequent to such declaration of bankruptcy have been necessarily incurred for the maintenance of such person or his or her family, or that the insolvency of such person has arisen from misfortune, or from inability to acquire subsistence for himself or

herself, and his or her family.

Discharge may extend to process for contempt in nonpayment of money, and to costs incurred by creditor.

XXI. That the discharge of any prisoner under the authority of any act which now is or may hereafter be in force for the relief of insolvent debtors shall and may extend to all process issuing from any court of law or equity for any contempt of such court for nonpayment of money or of costs, charges, or expences in any such court; and that in such case such discharge shall be deemed to extend to all costs which such prisoner shall be liable to pay in consequence or by reason of such contempt, or on purging the same; and that every such discharge as to any debt or damages of any creditor of any such prisoner shall be deemed to extend also to all costs incurred by such creditor before the filing of such prisoner's schedule in any action or suit brought by such creditor against such prisoner for the recovery of the same; and that all persons as to whose demands for any such costs, money, or expences any such prisoner shall be so discharged, shall be deemed and taken to be creditors of such prisoner in respect thereof, and entitled to the benefits of all the provisions made for creditors by any act now in force or hereafter to be in force relating to insolvent debtors; subject nevertheless to such ascertaining of the amount of the said demands as may be had by taxation or otherwise, and to such examination thereof as may be by any such act provided in respect to claims to a dividend upon the estate and effects of such insolvent.

Discharge of formance or nonperformance of an act.

XXII. That in all cases of process of contempt, whether for the perinsolvent where formance or nonperformance of any act or otherwise, where any insolprocess of con- vent shall have cleared his contempt except so far as regards the payment tempt is for per- of costs, or where it has become unnecessary for such insolvent to do the act for the nonperformance of which he shall have been committed or attached, the court from which such process shall have issued, or under the order of which the prisoner shall have been committed or attached, shall, upon the application of such prisoner, discharge him from the same, except as to the costs thereof, for which he shall remain in custody until discharged; and such costs shall be deemed to be within the provisions of the acts for the relief of insolvent debtors; and such prisoner may be discharged therefrom, and from the process of contempt, as if the commitment or attachment had originally been for nonpayment of money or costs.

Party agdecree of the

XXIII. And whereas it is expedient that in certain cases an appeal grieved by any should be allowed from the decrees of the court of conscience of the city of Dublin; be it therefore enacted, That where any decree or order of

Class I.] General Courts of Common Law, Court Houses, Judges.

said court of conscience shall be obtained in any suit, for any demand, fee, wages, or sum of money claimed by reason of any office, station, 1 & 2 W.4, place, or employment in the gift or nomination of the corporation of the city of Dublin or any guild thereof, or of any officer elected or appointed by the said corporation or any guild thereof, that in every such case the court of conparty aggrieved by such decree or order shall be entitled to appeal there- science in Dubfrom to the chief or any judge of any of his Majesty's supreme courts lin may appeal of law in Ireland sitting at nisi prius at the sittings of the city of Dub- to any judge of lin next after such decree or orders made; and the said appeal shall be the supreme made and proceeded on, and the judge to whom such appeal shall be courts. made shall proceed with respect thereto, in the same manner as appeals from the manor courts in the city of Dublin are now made and proceeded on: Provided always, that nothing in this act contained shall give of be construed to give to such court of conscience any jurisdiction whatsoever in any case which such court did not possess before the passing of this act.

No. V.

[No. VI.] 1 & 2 W. IV. c. XXXV.—An Act to explain and amend an Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law.

[15th October 1831.]

MHEREAS by an act passed in the eleventh year of the reign of king George the fourth and first year of the reign of his present Majesty, intituled An Act for regulating the Receipt and future Appropriation of 1 W. 4, c. 58. Fees and Emoluments receivable by Officers of the Superior Courts of Common Law, persons holding certain offices and employments are required to render to the commissioners to be appointed by virtue of the said act an account of the lawful fees and emoluments which have become due in respect of such offices and employments during the periods therein specified; and such commissioners are thereby authorized to inquire into and examine as well the legality as the amount of the fees and emoluments contained in such accounts, and are directed to ascertain the gross and net annual value, according to an average of ten years, of the lawful fees and emoluments of such offices and employments as aforesaid: And whereas it is difficult in many cases to find any certain rule by which the legality of such fees and emoluments can be strictly ascertained; and it is expedient that the compensation directed by the said act should be made upon equitable principles: Be it therefore enacted and declared, &c., That all fees and emoluments received Certain fees to and enjoyed in respect of the said offices or employments which the said be deemed commissioners shall deem to be reasonable, and which shall have been legal fees. received for fifty years before the twenty-fourth day of May one thousand eight hundred and thirty-one, or which shall have been uniformly received in respect of any matter or business which shall have first arisen vithin the said period of fifty years, by authority of parliament or other legal authority, shall be deemed and taken to be legal fees and emoluments within the true intent and meaning of the said act.

II. That if such commissioners shall entertain any doubt as to the If commispropriety or reasonableness of any such fees, or any matter connected sioners are in therewith, it shall be lawful for them to consult thereon the court or doubt as to the judge by whose officer the same may have been received, or any one or legality of any more of the judges of such court; and such court and judges shall and fees they may are hereby required to give their or his advice and opinion as early as consult the the same can be reasonably done; and that the advice so given, and the court or judge. question to which it is in answer, shall be in writing.

III. That the persons holding the offices or situations named in the Persons named schedule to this act annexed shall be deemed and taken to be within in the schedule the true intent and meaning of the said act, and within the authority to be deemed within the meaning of this act.

General Courts of Common Law, Court Houses, Judges. [Part IV.

No. VI. and jurisdiction of the said commissioners, who shall inquire into and

1 & 2 W. 4, report upon the value of the said offices or situations.

c. 35. Certain persons who have held offices for years, or during pleasure, to receive compensation. 1 W. 4, c. 70, s. 25.

IV. And whereas by another act, passed in the same year, intituled An Act for the better Administration of Justice in England and Wales, persons holding freehold offices were alone empowered to receive compensation from commissioners to be appointed by virtue of that act, albeit the holders of such offices for years or during pleasure are in justice entitled thereto; be it further enacted. That all persons who before the first day of January in the year of our Lord one thousand eight hundred and twenty-eight held offices or situations in any of the courts of great session in the county of Chester or principality of Wales, by virtue of any appointment theretofore lawfully made, for term of years or during pleasure, shall be deemed and taken to be within the true intent and meaning of the said act as above mentioned, and within the jurisdiction and authority of the commissioners appointed by virtue of the same act.

SCHEDULE.

Master or secondary of the courts of king's bench at Westminster; signer of the writs in the same court; chaplain of the king's bench prison; chief usher of the said court; under ushers and criers of the same court; keeper of Westminster hall; warden of the Fleet prison; officers of the revenue side of the courts of exchequer at Westminster; officers acting under commissioners of assize at nisi prius, oyer and terminer and general gaol delivery in England; who held such office on the twenty-fourth day of May in the year of our Lord one thousand eight hundred and thirty.

2 W. IV. c. 5.—An Act to provide for car-[No. VII.] rying on the Business of the Court of Session in Scotland when interrupted by the Death or necessary Absence of any of the Judges thereof.

[13th February 1832.]

WHEREAS by the laws now in force for regulating the proceedings in the court of session in Scotland no sufficient provision is made for carrying on the business of the said court in the event of the death, sickness, or necessary absence of any of the lords ordinary in the outer house, or in the event of the judges in either division of the inner house being reduced to less than a quorum by such casualties; whereby great delays and inconveniences have been suffered, and it is expedient that these should be remedied: Be it therefore enacted, &c., That from and after the passing of this act it shall be competent to the judges of the court of session, or a quorum thereof, in the case of the death. sickness, or other necessary absence of any of the lords ordinary of either division of the court, or of the junior lord ordinary acting as ordinary on the bills, to make such regulations by act of sederunt as may be necessary for carrying on the business of the outer house, and that either by appointing one of the judges of either division of the inner . house to officiate in the outer house or bill chamber during such absence of any of the above lords ordinary, or by appointing a lord ordinary of one division to act in such case pro tempore as an ordinary of the other division.

When the judges of the iuner house

II. That in case of death, sickness, declinature, or necessary absence of any of the judges of the inner house of either division, the number of judges in such division shall be reduced to less than a quorum, it are reduced be. shall be in the power of the division so reduced in number, and they low a quorum, they may call in one of the lords ordinary to assist.

Judges of the court of ses-8:on empowered to make regulations for carrying on the business of the said court in certain cases.

are hereby authorized and required, to call in one of the lords ordinary No. VII. of the same or of the other division to sit and vote in the inner house 2 W. 4, c. 5. until the number of judges in such division be again increased to a quorum.

[No. VIII.] 2 W. IV. c. 32.—An Act for the Erection of a Nisi Prius Court House in Dublin.

[23rd May 1832.]

[No. IX.] 2 W. IV. c. 48.—An Act to regulate the Office of Clerk of the Crown in the Court of King's Bench in [23rd June 1832.] Ireland.

[No. X.] 2 W. IV. c. 54.—An Act for making Provision for the Dispatch of the Business now done by the Court of Exchequer in Scotland. [23rd June 1832.]

WHEREAS by an act passed in the sixth year of the reign of queen Anne, intituled An Act for settling and establishing a Court of Ex- 6 Anne, c. 53. chequer in the North Part of Great Britain called Scotland, it was enacted, that from and after the fifth day of May one thousand seven hundred and eight a court of exchequer in Scotland should be and by authority of that act was thereby erected, constituted, and established in and for Scotland, and that such court should be and was thereby enacted to be a court of record, revenue, and judicature for and within Scotland, as therein mentioned: And whereas by an act passed in the forty-eight year of his Majesty king George the third, intituled An Act for enabling 48 G. 3, c. 145. His Majesty to grant Annuities to the Judges of the Court of Session, Justiciary, and Exchequer of Scotland, upon the Resignation of their Offices, it was enacted, that it should be lawful for his Majesty to grant unto any person who should have entered the office of chief baron of the said court of exchequer in Scotland, or of a baron of the same court, and who should have resigned any such office, an annuity or yearly sum of money not exceeding three fourth parts of the salary appertaining to such office at the time of the resignation thereof, and that every such annuity or yearly sum should commence from and after the period when the person to whom any such annuity or yearly sum should be granted as aforesaid should have resigned his office, and to continue from thenceforth for his natural life, payable out of the duty and revenues in Scotland, as therein mentioned; provided always, that no such annuity or yearly sum should be so granted to the said chief baron or barons of the said court unless he or they should have continued in one or more of the said offices for the space of fifteen years, or be afflicted by some permanent infirmity disabling him from the due execution of his office, which should be distinctly recited in the said grant: And whereas by an act passed in the first year of the reign of his present Majesty, in- 1 W. 4, c. 69. tituled An Act for uniting the Benefits of Jury Trials in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments in Scotland, it was enacted, that as vacancies should occur in the office of the baron of the said court of Exchequer, the same should not be filled up until the number of such barons should be reduced so that the said court should consist of the lord chief baron and one baron only: And whereas, with a view to render the administration of justice in matters of revenue in Scotland less expensive, it is expedient that on the retire-

ment or decease of the said lord chief baron of exchequer, or any of the

General Courts of Common Law, Court Houses, Judges. [Part IV.

No. X.

No successors to be appointed to the present barons.

Discharge of duties of the court upon retirement or death of the several barons.

After retirement or death of the last baron duties to be discharged by a judge of the court of ses-SIOD.

Power given court of session to grant warrant for issuing commissions.

As to the annuities to be granted to the chief and other barons.

other barons of the said court, no successors should be appointed to 2 W. 4, c. 54. their respective offices, and that fit provisions should be made for the performance of the duties of their respective offices, and also for facilitating the retirement of the said lord chief baron and other barons of the said court: Be it therefore enacted, &c., That from and after the passing of this act, upon the retirement or decease of the present lord chief baron or any of the present barons of the said court, no successors shall be appointed to their respective offices.

> II. That from and after the retirement or decease of any of the existing judges of the said court of exchequer all the judicial and other duties now discharged by the said court, or by any of the judges thereof, shall be discharged by the remaining judges of that court, or the last

remaining judge thereof, as the case may be.

III. That from and after the retirement or decease of the last remaining baron or chief baron, all the duties and powers which are by this act directed to be discharged and performed by and vested in such last remaining baron or chief baron shall be transferred to, discharged, and performed by and vested in such one of the judges of the court of session (such judge not being one of the judges of the court of justiciary) as his Majesty shall from time to time be pleased to name; and such judge shall have full power and authority to try all such suits and causes in the said court of exchequer, either in term or out of term, as he shall appoint: Provided nevertheless, that nothing in this act contained shall abridge or alter the jurisdiction or powers of the said court of exchequer.

IV. That if at any time after the passing of this act the number of to judge of the the barons of the said court shall be reduced, or after the retirement or decease of the last remaining baron as herein-before mentioned, then and in such case it shall and may be lawful, during the indisposition or absence of the baron and barons of such court to which the same shall be reduced, or of the judge of the court of session to be appointed to try the suits and causes in the said court as herein-before mentioned, to and for the judge of the court of session officiating as lord ordinary upon the bills for the time being to grant warrant for the issuing of all commissions to find debts, and fiats for the issuing of all writs and extents and other process issuable out of the said court of exchequer, and also to revise such signatures for the granting of crown charters, as may be of an urgent nature and require dispatch, in like manner and to as full force and effect as the lord chief baron or other barons of the said court are now by law authorized to do; any law, practice, or custom to the contrary hereof in anywise notwithstanding.

V. That from and after the the passing of this act the said provision in the said recited act of the forty-eighth year of the reign of his late Majesty king George the third contained, making fifteen years official service or some permanent infirmity a necessary condition to the granting the annuities or yearly sums of money therein mentioned, shall not extend to the present lord chief baron of the said court or to the other present barons of the said court who shall resign their offices: Provided nevertheless, That the annuity or yearly sum of money to be granted to the said lord chief baron by virtue of the said act or of this act shall not exceed the sum of two thousand pounds per annum; and that the annuities or yearly sum of money to be granted to each of the other barons who shall retire shall not exceed one thousand five hundred pounds per annum.

VI. That in consideration of the services to be performed by the of the court of judge of the court of session to whom the duties and powers of the present lord chief baron and barons of exchequer are to be transferred, it shall be lawful for his Majesty to grant warrants for paying to the said judge a salary or yearly sum of money not exceeding the sum of six hundred pounds; which sum of money shall be payable out of the same fund from which the salaries of the present lord chief baron and

other barons are now payable,

Salary to judge session to be appointed in place of the barons of exchequer.

[No. XI.] 2 & 3 W. IV. c. 110.—An Act for the better Regulation of the Duties to be performed by the Officers on the Plea or Common Law Side of the Court of [15th August 1832.] Exchequer.

WHEREAS an act was passed in the first year of the reign of his present Majesty, intituled An Act for the more effectual Administration 1 W. 4, c. 70. of Justice in England and Wales; and by the said act certain changes were made on the plea or common law side of the court of exchequer: And whereas William Stewart Rose esquire now is clerk of the pleas in the said court, and is lawfully entitled to execute the said office, by himself or his sufficient deputy, during the term of his natural life, and Thomas Dax esquire (commonly called the master) now is deputy clerk of the pleas, and Stephen Richards, Kenrick Collett, Edmund Walker, and George Chilton, esquires, are the four sworn clerks in the said court; and the said Thomas Dax, Stephen Richards, Kenrick Collett, Edmund Walker, and George Chilton are the five principal acting officers of the said court: And whereas the business in the offices on the plea or common law side of the said court has greatly increased, and the same since the passing of the said act has been conducted and performed by the said deputy clerk of the pleas and the said four sworn elerks, but without any regulation as to the respective duties to be performed by each; and many of the duties of the master have from necessity been performed by the sworn clerks, but without any obligation upon them to perform such duties; and it is expedient to apportion such business among the said officers, and to fix and determine the duties to be performed by them respectively: Be it therefore enacted, &c., That from and after the commencement of this act there shall con- There shall be tinue to be five principal officers on the plea side of the said court (ex- five principal clusive of the said William Stewart Rose esquire, the said clerk of the officers on the pleas), and no more; and that the said Thomas Dax, Stephen Richards, pleaside of the Kenrick Collett, Edmund Walker, and George Chilton, esquires, who court, excluhave so conducted the business on the plea side of the said court, and their successors, shall, from and after the passing of this act, perform pleas. the same as follows; that is to say, the said Thomas Dax, Kenrick Collett, and Edmund Walker shall perform the duties of master and prothonotary, the said Stephen Richards the duties of clerk of the rules, and the said George Chilton the duties of filazer of the said court, and the said officers shall be styled and designated accordingly; and if any doubt or difference shall at any time arise respecting the duties to be performed by the said respective officers, the same shall be settled and determined by the lord chief baron and the other barons of the said court for the time being.

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sive of the clerk of the

Their offices.

II. That such officers and their successors shall hold their said offices Offices to be during good behaviour, and shall and may, in and for the discharge of held during the duties of their respective offices, have such assistants and clerks as good behathe lord chief baron and the other barons of the said court for the time viour, with being shall determine to be necessary and proper; and that such assist such assistants ants and clerks shall and may be appointed by such officers respectively, as the court subject to the approbation of the lord chief baron for the time being; may deem nearld that each of the said officers shall at all times be responsible for cessary. the conduct of such of the said assistants and clerks whom he shall appoint.

III. That from and after the second day of Easter term one thousand Persons holdeight hundred and thirty-three, no person holding any of the said ing any of the offices, or being an assistant or clerk to any of the said offices, shall act offices, or their as an attorney or solicitor, or agent of an attorney or solicitor, in any assistants, not court of law or equity in the united kingdom of Great Britain and Ire- to act as land, either separately or in partnership with any other, during such attorneys or time as he shall hold such office or act as such assistant or clerk.

· IV. That the office of clerk of the errors, now filled and executed by Clerk of the

No. XI.

c. 110.

Attendance and hours of business to be as directed by the court.

In case of sickbe granted. and, if necessary, a deputy appointed.

The lord chief baron, in cerfill up vacancies until there shall be an effective officer.

Office of clerk to be again filled up.

As to the filling up of vacancies in the offices of master and prothonotary;

and of the clerk of the rules and filazer.

Salaries of the paid out of the fees.

yearly.

General Courts of Common Law, Court Houses, Judges. [Part IV.

the said Thomas Dax, shall continue to be filled and executed by him as 2 & 3 W. 4, long as he shall be a master or prothonotary of the said court, and no longer, and the same shall always hereafter be filled by the person who shall be the senior master or prothonotary of the court for the time being.

V. That the said officers, and their assistants and clerks, shall give their attendance in court or elsewhere, and shall conduct the business in their several departments, at such hours, and in every respect in such manner, as the said lord chief baron and other barons of the said

court shall from time to time order and direct.

VI. Provided always, That if either of the said officers shall, from ness, &c. leave sickness or other reasonable cause, have occasion to be absent from the of absence may business of his said office, then and in every such case it shall and may be lawful for such officer, by and with the permission of the lord chief baron for the time being, or, in his absence, of some other baron of the said court, to give leave of absence, by his order in writing, to such officer, and, if necessary, to appoint a deputy in his place and stead during such time as shall be expressed in such order; and the name of such deputy, and also the cause and time of such absence, shall be stated in such order; and such deputy may, if occasion shall require it, be changed by the said lord chief baron, or, in his absence, by some other baron of the said court; and every such deputy shall be paid by the principal for whom he shall so act as aforesaid, and as the said lord chief baron, or other baron of the said court, shall direct in such order.

VII. That if either of the said offices shall become vacant, or if any such officer shall be unable to act in his said office from sickness or any tain cases, may other cause, and shall be unable to appoint a deputy, then and in every such case it shall and may be lawful for the lord chief baron, by warrant under his hand and seal, to appoint a person to perform the duty of such officer until there shall be an effective officer to discharge the same; and such person so appointed shall, during the continuance of such deputation or appointment, have all and every the rights, emoluments, powers, and authorities, and shall be subject to the same liabilities, as such officer whose duty he shall so have been appointed to per-

form would have possessed or been liable to.

VIII. That when a vacancy shall occur in the said office of clerk of of the pleas not the pleas, by the demise of the said William Stewart Rose esquire, or otherwise, the said office shall not again be filled up, but the same shall from thenceforth cease and determine.

> IX. That if any vacancy shall occur in either of the said offices of master and prothonotary during the lifetime of the said William Stewart Rose, and while he shall hold the said office of clerk of the pleas as aforesaid, the said William Stewart Rose shall, as often as such vacancy shall happen, appoint a person to succeed to such office, subject to the approbation of the lord chief baron for the time being; and after the death of the said William Stewart Rose, or other determination of his said office, when any vacancy shall occur in either of the said offices of master and prothonotary, the lord chief baron of the said court for the time being shall appoint a fit and proper person to fill the same; and when, at any time after the passing of this act, any vacancy shall occur in the offices of clerk of the rules and filazer of the said court, the lord chief baron for the time being shall appoint a fit and proper person to fill such office.

X. That the said five officers shall receive, by way of salary, for persaid five officers forming the duties of their respective offices, such annual sum as the to be fixed by lord chief baron and the other barons of the said court, with the approthe court, and bation of the lords commissioners of his Majesty's treasury, shall think proper, to commence and be computed and payable from the twelfth day of October one thousand eight hundred and thirty, the said salaries to be retained and paid out of the fees by law payable in respect of the Surplus of fees duties performed by the officers of the common law side of the said to be accounted court; and the surplus of such fees, after deducting the expences of

assistants and clerks, the amount of which shall be fixed and regulated by the said court, and the other necessary expences of the said office, 2 & 3 W. 4, shall be accounted for once every year, upon oath, before the lord chief baron and other barons of the said court, and the balance, if any, shall be paid over to the lords commissioners of his Majesty's treasury; and any sum which may be awarded to the said officers by the commissioners, or any or either of them, under the act passed in the first year of the reign of his present Majesty, intituled An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law, shall be taken into consideration in fixing and ascertaining their said respective salaries.

No. XI. c. 110.

XI. That there shall be paid to the said William Stewart Rose such W. S. Rose, annual sum as the lord chief baron and other barons of the said court, Esq. to receive with the approbation of the lords commissioners of his Majesty's trea- an annual sum sury, shall think proper, out of the said fees, until the said commissioners until commisunder the said act of the first year of the reign of his present Majesty sioners make shall make their report upon the claim made by the said William Stewart their report. Rose under the said last-mentioned act.

XII. Provided always, That no officer or other person named in or Officers not appointed by virtue of this act shall be entitled to have or claim any entitled to comcompensation whatever for or by reason or in consequence of any such pensation if office being regulated, or abolished by law or the orders of the said offices abolished. court, or otherwise.

XIII. That this act, and every clause and matter therein contained, Commenceshall commence and have effect immediately from and after the passing ment of act. of the same.

[No. XII.] 2 & 3 W. IV. c. 116.—An Act to provide for the Salaries of certain High and Judicial Officers, and of Payments heretofore made out of the Civil List Revenues. [16th August 1832.]

WHEREAS in an act passed in the first year of the reign of his present Majesty, intituled An Act for the Support of His Majesty's Household, and of the Honour and Dignity of the Crown of the United Kingdom of Great Britain and Ireland, it is recited, that in consequence of his Majesty having been graciously pleased to signify to his faithful commons in parliament assembled, that his Majesty placed without reserve at their disposal his Majesty's interest in the hereditary revenues, and in those funds which may be derived from any droits of the crown or admiralty, from the West India duties, or from any casual revenues, either in his Majesty's foreign possessions or in the united kingdom; and that in surrendering his Majesty's interest in revenues which had in former settlements of the civil list been reserved to the crown, his Majesty rejoiced in the opportunity of evincing his Majesty's entire reliance on their dutiful attachment, and his Majesty's confidence that they would cheerfully provide all that might be necessary for the support of the civil government, and the honour and dignity of his Majesty's crown; his Majesty's most dutiful and loyal subjects, the commons of the united kingdom of Great Britain and Ireland in parliament assembled, with hearts full of the warmest duty and gratitude, declare their desire that provision should be made for the support of the civil government by charges upon the consolidated fund, and otherwise by other acts to be passed in the then session of parliament, and that a certain and competent revenue for defraying the expences of his Majesty's household, and supporting the honour and dignity of the crown of the united kingdom during his Majesty's life (whom God long preserve), might be settled upon his Majesty: And whereas by the said recited act the latter object was effected, but no act or acts have since

No. XII. c. 116.

Salaries to judges.

passed for making the contemplated provision for the civil government 2 & 3 W. 4, charges previously borne upon the civil list revenues, upon the hereditary revenues of Scotland, and upon the four and half per centum duties, over and above the charges provided for by the said recited act; and, such charges have from time to time been provided for by occasional grants of parliament until they should be charged upon the consolidated fund, or otherwise provided for according to the spirit and meaning declared in the said recited act: And whereas it has been deemed expedient that many of the said charges should be granted from year to year upon estimates to be annually prepared for that purpose: And whereas it is now deemed expedient to carry into effect the intentions expressed in that act, by making provision for other of the said civil government charges out of the consolidated fund of the united kingdom of Great Britain and Ireland: Be it therefore enacted, &c. That it shall be lawful for his Majesty, his heirs and successors, to grant the several and respective annual salaries herein-after specified, from and after the fifth day of April one thousand eight hundred and thirty-two, to the judges of his Majesty's courts at Westminster and Dublin, herein-after enumerated; (that is to say,) to the chief justice of the court of king's bench at Westminster, ten thousand pounds; to the chief justice of the court of common pleas at Westminster, eight thousand pounds; to the chief baron of the court of exchequer at Westminster, seven thousand pounds; to each of the puisne justices of the courts of king's bench and common pleas and barons of the coif of the court of exchequer at Westminster, who may have been appointed before the sixteenth day of November one thousand eight hundred and twenty-eight, five thousand five hundred pounds; to each of the puisne justices and barons of the said courts who may have been appointed since the sixteenth day of November one thousand eight hundred and twenty-eight, and to those who may be hereafter appointed, five thousand pounds; to the cursitor baron of the exchequer at Westminster, during the continuance of the existing interest therein, two hundred and forty-three pounds; to the vice-chancellor of England, six thousand pounds; to the lord chancellor of Ireland, eight thousand pounds; to the chief justice of the court of king's bench in Dublin, five thousand and seventy-four pounds nine shillings and four-pence; to the chief justice of the court of common pleas in Dublin, four thousand six hundred and twelve pounds eighteen shillings and eight-pence; to the chief baron of the court of exchequer in Dublin, four thousand six hundred and twelve pounds eighteen shillings and eight-pence; to the second justice of the court of king's bench in Dublin, three thousand seven hundred and twenty-five pounds nineteen shillings and four-pence; to each of the other puisne justices of the courts of king's bench and common pleas and barons of the coif in the court of exchequer in Dublin, three thousand six hundred and eighty-eight pounds twelve shillings and four-pence; to the judge of the admiralty court in Ireland, five hundred pounds; and all such salaries shall be payable quarterly, and shall be charged and chargeable upon and paid out of the consolidated fund of the united kingdom of Great Britain and Ireland; and all such respective salaries shall be the full salaries of each of such judges, and shall be in lieu of all salaries heretofore payable to such judges out of the consolidated fund or civil list, or other fund whatsoever, under any act or acts of the parliament of Great Britain or Ireland or of the united kingdom, and of all fees or other emoluments which heretofore made part of the salaries of any of such judges respectively, save and except as to fees receivable by the present cursitor baron of the exchequer, who shall be allowed to continue to take and receive all fees legally demandable by him, during the continuance of his existing interest in the said office; any thing contained in any act or acts of the parliament of Great Britain or Ireland or of the united kingdom, or any law, usage, or custom, relating to any of the salaries of any of such judges respectively, to the contrary notwithstanding.

Class I. General Courts of Common Law, Court Houses, Judges.

II. That all such fees and pecuniary profits as have heretofore been used and accustomed to be demanded and received by or for the use 2 & 3 W.4, of any of the aforesaid judges (save and except the said cursitor baron), or of the lord chancellor of Ireland, shall continue to be demanded and received by the persons who have heretofore demanded and received the Fees, &c. same, and shall be accounted for quarterly, and paid into the ex-heretofore rechequer, and be carried to and make part of the said consolidated ceived by judges and lord chancellor of Ireland to be paid into the exchequer. fand.

No. XII. c. 116.

III. That it shall be lawful for his Majesty, his heirs and successors, Salary to lord to grant to the lord lieutenant general and general governor of Ireland lieutenant of for the time being an annual salary of twenty thousand pounds, charge- Ireland. able upon the said consolidated fund of the united kingdom of Great Britain and Ireland, to be paid and payable quarterly at the four most usual days of payment in the year, the first payment to commence and take effect from the fifth day of April one thousand eight hundred and thirty-two.

IV. That it shall be lawful for his Majesty, his heirs and successors, Diplomatic to charge upon the consolidated fund of the united kingdom of Great salaries and Britain and Ireland an annual sum of two hundred and three thousand pensions. five hundred and ten pounds, to defray the charge of the salaries and allowances of his Majesty's diplomatic servants employed at foreign courts, and of the pensions which have been granted or may hereafter be granted to persons having served his Majesty at foreign courts, the said charge to take effect and commence from the fifth day of April one thousand eight hundred and thirty-two.

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V. Provided always, That until the said sum of two hundred and Restriction on three thousand five hundred and ten pounds shall be reduced to the sum amount of of one hundred and eighty thousand pounds, it shall not be lawful for grants of penhis Majesty, his heirs or successors, to grant in any one year a larger sions. annual amount in pensions for diplomatic services than two thousand pounds in the whole; and when the actual charge shall be reduced to the sum of one hundred and eighty thousand pounds, it shall not be lawful for his Majesty, his heirs and successors, to charge upon the said consolidated fund for any one year a larger amount to defray the charges of diplomatic salaries, allowances, and pensions than one hundred and eighty thousand pounds.

VI. That no new diplomatic pension which may hereafter be granted Limitation of under the authority of this act shall exceed one thousand seven hun-diplomatic dred pounds per annum to any one person for the first class, one thou-pensions. sand three hundred pounds per annum to any one person for the second class, nine hundred pounds per annum to any one person for the third class, and seven hundred pounds per annum to any one person for the fourth class; and that such pensions shall only be so granted under the following regulations and restrictions; (that is to say,)

First, That no diplomatic pension whatever shall be granted to any person until the expiration of fifteen years from the date of his first commission, nor unless he shall have actually served ten years:

Second, That no person shall be qualified to receive a pension of the first class unless he shall have actually resided three years as ambassador at some foreign court:

Third, That no person shall be qualified to receive a pension of the second class who shall not have actually resided five years as an envoy extraordinary and minister plenipotentiary at some foreign court:

Fourth, That no person shall be qualified to receive a pension of the third class who shall not have actually resided five years as minister plenipotentiary or minister resident at some foreign court:

Fifth, That pensions in the remaining class shall not exceed seven hundred pounds per annum, under the same conditions as to time of residence.

General Courts of Common Law, Court Houses, Judges. [Part IV.

No. XII. c. 116. Forfeiture or abatement of

VII. Provided always, That all diplomatic pensions shall be subject 2 & 3 W. 4, to forfeiture in case of refusal of the person holding the same to proceed to any mission of equal or higher rank than that in respect of which such pension may have been granted, and of suspension or abatement in any case in which the person holding the same may be appointed to any office of profit under the crown. pension in certain cases.

Account of pensions to be laid before parliament.

VIII. That an account of all payments which may be made for diplomatic salaries, allowances, and pensions shall be laid before both houses of parliament on or before the twenty-fifth day of March in every year.

Providing for the late civil list pensions.

IX. That it shall be lawful for his Majesty, his heirs and successors, to direct the payment of any sum or sums of money, not exceeding in the whole eighty-five thousand one hundred and twenty-nine pounds per annum, out of the consolidated fund of the united kingdom of Great Britain and Ireland, to defray the charge, during the pleasure of his Majesty, his heirs and successors, of those pensions which, prior to the accession of his Majesty, were charged upon the civil list payable in England and in Ireland, upon the hereditary revenues of Scotland, and the four and a half per centum duties, and for which no provision was made in the civil list granted to his Majesty by the act for the support of his Majesty's household, and for the honour and dignity of the crown; the said charge to commence and take effect from the fifth day

Such pensions to be granted only to those persons who were charged on the civil list, &c.

of April one thousand eight hundred and thirty-two. X. Provided always, That such pensions shall be granted only to or on behalf of those persons who were in the receipt and enjoyment of, or were beneficially interested in, a pension of corresponding amount upon the civil list in England or in Ireland, the hereditary revenues of Scotland, or the four and a half per centum duties, prior to the accession of his Majesty; and that such of the said pensions and of the salaries and allowances herein-after mentioned as have heretofore been paid out of the hereditary revenues of Scotland, and out of the four and a half per centum duties, shall, after his Majesty's life, (which God long preserve,) and in the event of his Majesty's heirs and successors resuming the rights of the crown in the said hereditary revenues of Scotland, and the four and a half per centum Juties, and receiving the same, then cease to be a charge on the said consolidated fund.

Salaries of officers formerly paid out of civil list.

XI. That it shall be lawful for his Majesty, his heirs and successors, to charge upon the consolidated fund of the united kingdom of Great Britain and Ireland any sum or sums of money, not exceeding in the whole twenty thousand three hundred and nine pounds per annum, to pay salaries and allowances which prior to the accession of his Majesty were chargeable on the civil list revenues in England and Ireland, and on the hereditary revenues in Scotland, and for which no provision has been made by this act for the support of his Majesty's household, and for the honour and dignity of the crown, the said charge to commence and take effect from the fifth day of April one thousand eight hundred and thirty-two.

Salaries. &c. to be free of all fees and taxes.

XII. That the several salaries, allowances, and pensions granted or to be granted under the authority of this act shall be paid net, and free and clear of all taxes or charges, for or in respect of any land tax, or of any pension or other duty, rate, or charge whatever, and clear and discharged of all fees or payments whatever to which any such salaries, allowances, or pensions may have been heretofore, or may be by any act or acts of parliament, or law or laws, or any ancient usage or custom, subject or liable; and that all such salaries, allowances, and pensions shall be paid and payable quarterly at the four most usual days of payment in the year, together with a rateable proportion of the quarter current at the death or resignation of any of the persons in the receipt of such salaries, allowances, and pensions.

The treasury may by war-

XIII. That it shall be lawful for the lord high treasurer, or the commissioners of the treasury of the united kingdom of Great Britain and nt direct the auditor of the exchequer to pass debentures for payment of the salaries, pensions, &c.

No. XII.

c. 116.

Class I.] General Courts of Common Law, Court Houses, Judges.

Ireland, for the time being, or any three or more of them, and they are hereby authorized and required, by warrant under their hands, to direct 2 & 3 W. 4, debentures to be made forth and passed by the proper officers at the receipt of his Majesty's exchequer, from time to time, for paying the said several salaries, pensions, or sums of money, in manner as aforesaid, and as the same shall from time to time become due and payable, according to the true intent and meaning of this act; which said warrants and debentures to be made forth and passed thereon respectively, shall be sufficient authority to the several respective officers of the receipt of the exchequer, now and for the time being, for the payment of all such salaries, pensions, or sums of money, at the respective days to be appointed for such payments, without any further or other warrants to be sued for, had, or obtained in that behalf.

XIV. And wheras no provision has been made for defraying the Paying up charge of that part of the salaries of the several judges enumerated in salaries from this act, formerly charged upon the civil list in England and in Ireland, 5th April, nor for any of the other salaries, allowances, and pensions to be granted 1832. under the authority of this act, for any period subsequent to the fifth day of April one thousand eight hundred and thirty-two; be it therefore enacted, That it shall be lawful for the lord high treasurer, or commissioners of the treasury, for the time being, or any three or more of them, after the passing of this act, and previously to the making up of the consolidated fund for the quarter then next ensuing, to direct and cause to be issued, out of the growing produce of the consolidated fund, such issues and payments as may be necessary to defray the charge of all such salaries, allowances, and pensions from the fifth day of April one thousand eight hundred and thirty-two to the fifth day of July one thousand eight hundred and thirty-two.

XV. And whereas by an act passed in the sixth year of the reign of Repeal of his late Majesty king George the fourth, intituled An Act to regulate the 6 G. 4, as to Proceedings as to sealing of Writs in the Court of Exchequer in Ireland, salary of it was enacted, that from and after the fifth day of July one thousand chancellor of eight hundred and twenty-five there should be issued and paid to the the exchequer chancellor of the exchequer of Ireland, from time to time, for the time of Ireland. being, and during the continuance of any and every such chancellor of the exchequer in his said office, as a compensation for the loss which would be sustained by such chancellor of the said exchequer by reason of the said act, the sum of six hundred pounds British currency, yearly and every year, out of and charged and chargeable upon the consolidated fund of the united kingdom of Great Britain and Ireland: And whereas the salary of the chancellor of the exchequer for the time being is now otherwise provided for; be it therefore enacted, That the said act, so far as the same relates to any payment to be made to the chancellor of the exchequer for the time being, in compensation for fees, shall be and the same is hereby repealed.

[No. XIII.] 3 & 4 W. IV. c. 42.—An Act for the further Amendment of the Law, and the better Advancement of [14th August 1833.] Justice.

XXXIX. And whereas it is expedient to render references to arbitra- Submission to tion more effectual; be it further enacted, That the power and authority arbitration by of any arbitrator or umpire appointed by or in pursuance of any rule of rule of court, court, or judge's order, or order of nisi prius, in any action now brought &c. not to be or which shall be hereafter brought, or by or in pursuance of any sub-revocable mission to reference containing an agreement that such submission shall without leave be made a rule of any of his Majesty's courts of record, shall not be of the court. revocable by any party to such reference without the leave of the court by which such rule or order shall be made, or which shall be mentioned

General Courts of Common Law, Court Houses, Judges. [Part IV -

No. XIII.

in such submission, or by leave of a judge; and the arbitrator or umpire 3 & 4 W. 4, shall and may and is hereby required to proceed with the reference notwithstanding any such revocation, and to make such award, although the person making such revocation shall not afterwards attend the reference; and that the court or any judge thereof may from time to time enlarge the term for any such arbitrator making his award (1).

Power to comance of wit-Desecs.

XL. That when any reference shall have been made by any such rule pel the attend- or order as aforesaid, or by any submission containing such agreement as aforesaid, it shall be lawful for the court by which such rule or order shall be made, or which shall be mentioned in such agreement, or for any judge, by rule or order to be made for that purpose, to command the attendance and examination of any person to be named, or the production of any documents to be mentioned in such rule or order; and the disobedience to any such rule or order shall be deemed a contempt of court, if, in addition to the service of such rule or order, an appointment of the time and place of attendance in obedience thereto, signed by one at least of the arbitrators, or by the umpire, before whom the attendance is required, shall also be served either together with or after the service of such rule or order: Provided always, that every person whose attendance shall be so required shall be entitled to the like conduct money, and payment of expences and for loss of time, as for and upon attendance at any trial: Provided also, that the application made to such court or judge for such rule or order shall set forth the county where such witness is residing at the time, or satisfy such court or judge that such person cannot be found: Provided also, that no person shall be compelled to produce, under any such rule or order, any writing or other document that he would not be compelled to produce at a trial, or to attend at more than two consecutive days, to be named in such order (2).

Power for the arbitrators under a rule of court to administer an oath.

XLI. That when in any rule or order of reference, or in any submission to arbitration containing an agreement that the submission shall be made a rule of court, it shall be ordered or agreed that the witnesses upon such reference shall be examined upon oath, it shall be lawful for the arbitrator or umpire, or any one arbitrator, and he or they are hereby authorized and required, to administer an oath to such witnesses, or to take their affirmation in cases where affirmation is allowed by law instead of oath; and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted and punished accordingly.

Power of granting comaffidavits to extend to Scotland and Ireland.

XLII. And whereas it would be convenient if the power of the superior courts of common law and equity at Westminster to grant commissions missions to take for taking affidavits to be used in the said courts respectively should be extended; be it further enacted by the authority aforesaid, That the lord high chancellor, lord keeper or lords commissioners of the great seal. the said courts of law, and the several judges of the same, shall have such and the same powers for granting commissions for taking and receiving affidavits in Scotland and Ireland, to be used and read in the said courts respectively, as they now have in all and every the shires and counties within the kingdom of England, and dominion of Wales, and town of Berwick-upon-Tweed, and in the Isle of Man, by virtue of the statutes now in force; and that all and every person and persons wilfully swearing or affirming falsely in any affidavit to be made before any person or persons who shall be so empowered to take affidavits under the authority aforesaid shall be deemed guilty of perjury, and shall

(2) Formerly a witness could not be compelled to attend before an arbitrator, even although he had engaged to attend, and it was doubtful whether a witness could be indicted for perjury in respect of any false swearing before the arbitrator. 2 Chitty's Gen. Pr. of the Law, 98, 3 Car. & P. 419.

⁽¹⁾ In a recent case in the exchequer, the court, although of a contrary opinion at first, seemed inclined to think, but did not decide the point, that under this clause the court had power to enlarge the time in a submission to reference, where there had been no revocation by either party. Potter v. Newman, M. T. MS.

incur and be liable to the same pains and penalties as if such person had wilfully sworn or affirmed falsely in the open court in which such affidavit shall be entitled, and be liable to be prosecuted for such perjury in any court of competent jurisdiction in that part of the united kingdom in which such offence shall have been committed, or in that part of the united kingdom in which such person shall be apprehended on such

No. XIII. 3 & 4 W. 4, c. 42.

a charge.

XLIII. And whereas the observance of holidays in the said courts of For the abolicommon law during term time, and in the offices belonging to the same, tion of certain on the several days on which holidays are now kept, is very inconvenient, and tends to delay in the administration of justice; be it therefore enacted by the authority aforesaid, That none of the several days mentioned in the statute passed in the sessions of parliament holden in the fifth and sixth years of the reign of king Edward the sixth, intituled An Act for keeping Holidays and Fasting Days, shall be observed or kept in the said 5 & 6 Edw. 6, courts, or in the several offices belonging thereto, except Sundays, the c. 3. day of the nativity of our Lord and the three following days, and Mon-

day and Tuesday in Easter week. XLIV. That this statute shall commence and take effect on the first Commence-

day of June one thousand eight hundred and thirty-three.

XLV. That nothing in this act shall extend to that part of the united Not to extend kingdom called Ireland, or that part of the united kingdom called Scot. to Ireland or land, except in the cases herein-before specially mentioned (1).

Scotland.

[No. XIV.] 4 & 5 W. IV. c. 68.—An Act to authorize an Advance out of the General Funds of Monies belonging to the Suitors of the Courts of Chancery and Exchequer in Ireland, towards the Purchasing of Ground, and Building thereon Offices necessary to the Courts of Justice in Dublin. [13th August 1834.]

[No. XV.] 5 & 6 W. IV. c. 46.—An Act to amend, until the End of the next Session of Parliament, an Act of the Second Year of His present Majesty, for making Provision for the Dispatch of the Business now done by the Court of [31st August 1835.] Exchequer in Scotland.

WHEREAS by any act passed in the second year of the reign of his present Majesty, intituled An Act for making Provision for the Dis- 2 W. 4, c. 54. patch of the Business now done by the Court of Exchequer in Scotland, it is amongst other things enacted, That if at any time after the passing of the said act the number of the barons of the said court shall be reduced, or after the retirement or decease of the last remaining baron, then and in such case it shall and may be lawful during the indisposition or absence of the baron and barons of such court to which the same shall be reduced, or of the judge of the court of session to be appointed to try the suits and causes in the said court, to and for the judge of the court of session, officiating as lord ordinary upon the bills for the time being, to grant warrant for the issuing of all commissions to find debts, and fiats for the issuing of all writs and extents, and other process issuable out of the said court of exchequer, and also to revise such signatures for the granting of crown charters as may be of an urgent nature and require dispatch, in like manner and to as full force and effect as the lord chief baron or other barons of the said court

⁽¹⁾ The other clauses of this act will be found in the subsequent classes contained in Part IV.

General Courts of Common Law, Court Houses, Judges. [PartIV.

No. XV. 5 & 6 W. 4, c. 46.

In case of indisposition of remaining baron of court of exchequer, judge of court of session to try suits in the exchequer court.

are by law authorized to do: And whereas the lord chief baron and one of the barons of the said court of exchequer have retired since the passing of the said act, and the powers and duties of the said court of exchequer are now discharged by the sole remaining baron of the said court: And whereas, in consequence of the continued indisposition of the said sole remaining baron, it has become expedient to provide more effectually for the proper dispatch of the business of the said court of exchequer: Be it therefore enacted, &c., That at any time after the passing of this act it shall and may be lawful, during the indisposition or unavoidable absence of the said sole remaining baron of the court of exchequer, or of the judge of the court of session, to be appointed to try the suits and causes in the said court, and perform the other duties thereof in the said recited act mentioned, to and for the judge of the court of session officiating as lord ordinary upon the bills for the time being to try all suits and causes in the said court of exchequer, either in term or out of term, as he shall appoint, to grant warrant for the issuing of all commissions to find debts, and fiats for the issuing of all writs of extent and other process issuable out of the said court of exchequer, and to revise, compound, and pass signatures for the granting of crown charters, and generally to perform all the powers and duties of the said court of exchequer, as fully and effectually as the lord chief baron, barons, and sole remaining baron of the said court were and are by law authorized to do; any thing in the said recited act to the contrary notwithstanding.

Duration of act.

II. That this act shall continue in force until the end of the next session of parliament.

[No. XVI.] 5 & 6 W. 4. c. 82.—An Act to abolish certain Offices connected with Fines and Recoveries and the Cursitors in the Court of Chancery, and to make Provision for the Abolition of certain Offices in the Superior Courts of Common Law in England. [10th September 1835.]

3 & 4 W. 4, c. 74.

WHEREAS by an act passed in the third and fourth years of the reign of his present Majesty, intituled An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance, it is enacted, That after the thirty-first day of December one thousand eight hundred and thirty-three no fine shall be levied or common recovery suffered of lands of any tenure, and that every fine or common recovery levied or suffered contrary to the provision of that act shall be absolutely void, save and except in cases where a writ of dedimus or other writ in the regular proceedings of such fine or recovery shall have been sued out on or before the said thirty-first day of December one thousand eight hundred and thirty-three: And whereas by the operation of the said act the business of certain offices in the court of common pleas and of the alienation office has almost wholly ceased; and it is expedient that the said offices should be abolished, and the few duties remaining to be performed transferred to some other officer: Be it therefore enacted, &c., That from and after the thirty-first day of December one thousand eight hundred and thirty-five the several offices in his Majesty's court of common pleas hereafter mentioned, namely, of the chirographer, and the secondary register and clerks of counties in the office of the chirographer, of the clerk of the king's silver, and of the clerk of the return office and of the inrolment of writs for fines and recoveries, and also the several offices in the alienation office, consisting of two commissioners, a receiver general, two entering clerks, a master in chancery appointed for taking affidavits, and an office keeper, shall

Certain offices abolished.

Records, &c. transferied to

be and the same are hereby abolished. II. That the several records, books, and other documents of and conhe registrar in London under 3 & 4 W. 4, c. 74, subject to orders of the court of common pleas.

Class I.] General Courts of Common Law, Court Houses, Judges.

cerning the duties and business of the said offices so abolished as aforesaid shall on or before the said thirty-first day of December be de- 5 & 6 W. 4, livered by the several officers or persons now having custody of the same into the hands and possession of the officer of the court of common pleas at Westminster for the time being appointed or to be appointed by the lord chief justice of the court of common pleas, for the purpose of examining, filing, and recording all certificates of the taking of acknowledgments by married women of deeds under the provisions of the said in part recited act, to be by him kept and preserved; subject nevertheless to such rules, orders, and regulations as the court of common pleas shall or may from time to time make or ordain in respect of the same.

No. XVI. c. 82.

III. That from and after the said thirty-first day of December, in all Business of such cases where parties intending to levy a fine or suffer a common re-abolished covery shall on or before the thirty-first day of December one thousand offices transeight hundred and thirty-three have sued out a writ of dedimus or any registrar under other writ in the regular proceedings of such fine or recovery, the pro- 3 & 4 W. 4, ceedings, matters, and things usually done, performed, filed, or recorded c. 74. by the officers whose offices are hereby abolished, or any of them, which are by law required or needful to be done, performed, filed, or recorded in respect of every such fine or recovery, shall be done, performed, filed, or recorded by the said officer of the court of common pleas for the time being appointed or to be appointed for examining, filing, and recording the before-mentioned certificates; and the proceedings, matters, and things in all such fines and recoveries so done, performed, filed, or recorded by the said officer of the court of common pleas shall from and after the thirty-first day of December one thousand eight hundred and thirty-five be as full and effectual to all intents and purposes in law and equity as if the said proceedings, matters, and things had been done, performed, filed, and recorded by the officers whose offices are hereby abolished; any law, custom, or usage to the contrary notwithstanding: Provided always, That the said officer of the court of common pleas for the time being in the performance and execution of the duties and business hereby transferred to him shall be subject to all the enactments and provisions now in force by virtue of any statute or statutes, and to all the rules, orders, and regulations of the court of common pleas now in force or which may hereafter be made relating to all such fines and recoveries, where the writ of dedimus or other writ in the regular proceedings of such fines and recoveries shall have been sued out on or before the said thirty-first day of December one thousand eight hundred and thirty-three.

IV. That from and after the said thirty-first day of December one Searches may thousand eight hundred and thirty-five searches may be made, and be made and copies or extracts of and from the said records, books, and documents copies taken, shall and may be had and taken, at such times and in such manner as which shall be hath been the accustomed practice in the offices hereby abolished; and as available as all such copies or extracts, signed and authenticated by the said officer heretofore. of the court of common pleas for the time being appointed or to be appointed as aforesaid, shall be as available in evidence, and as valid and effectual, to all intents and purposes, as the same would by law have been if the same had been signed, authenticated, and given by the officers whose offices are hereby abolished, or any of them.

V. That from and after the said thirty-first day of December any fine Fines heretoor fines usually called pre fines and post fines, now payable on alienation fore paid in of lands or other hereditaments to the receiver general of alienation the alienation fines, in cases where the writ of dedimus or any other writ in the regular office to be proceedings of levying a fine or suffering a common recovery shall have paid to been issued on or before the thirty-first day of December one thousand registrar under eight hundred and thirty-three shall be assessed by and paid to the c. 74, and acofficer of the court of common pleas for the time being appointed or to counted for by be appointed as aforesaid, in like manner as the same is or are now paid him. and payable to the said receiver general of alienation fines; and the said

General Courts of Common Law, Court Houses, Judges. [Part IV.

No. XVI. 5 & 6 W. 4. c. 82.

Same fees as heretofore to be received for, and trea-

sury to affix remuneration of registrar for performing the duties imposed upon him.

Compensation to lords of liberties and others for loss of fines.

The sum of fore paid by receiver of to the hanaper to be paid out

of the consoli-

dated fund.

officer of the court of common pleas for the time being is hereby required to keep a true and full account of every pre and post fine received by him, and to account for such fines to the lord high treasurer or commissioners of his Majesty's treasury at such times and in such manner as he or they may direct.

VI. That it shall be lawful for such officer of the court of common pleas for the time being appointed or to be appointed as aforesaid, from and after the thirty-first day of December, to demand and receive the and accounted same fees and emoluments for all proceedings, matters, and things done, performed, filed, or recorded by him as the several officers whose offices are hereby abolished have been accustomed to demand and receive; and the said officer of the court of common pleas for the time being is hereby required to account for all such fees and emoluments received by him to the said lord high treasurer or commissioners of his Majesty's treasury at such times and in such manner as he or they may direct; and the said lord high treasurer or commissioners of his Majesty's treasury is and are hereby authorized and empowered to allow such officer of the court of common pleas for the time being such remuneration for the performance of the duties imposed upon him by this

act as he or they shall think reasonable and proper.

VII. And whereas by the operation of the said in part recited act for the abolition of fines and recoveries several lords of liberties and other persons in England and Wales, who are lawfully entitled to receive certain sums or fines, or parts of fines, payable on the alienation of land and other hereditaments by fine or recovery, have been and will be wholly deprived thereof, and it is reasonable and fit that compensation should be made to the said persons for such losses; be it therefore enacted, That it shall be lawful for the lord high treasurer or commissioners of his Majesty's treasury for the time being, or any three or more of them, by warrant under their hands to order and direct that from and after the thirty-first day of December one thousand eight hundred and thirty-three such annual or other compensation as in his or their discretion shall seem just and reasonable shall be made to all and every the lords of liberties, lessees or grantees under the crown, bodies corporate and politic and other persons who at the time of the passing of the said act were lawfully entitled to fines or parts of fines payable on alienation of land and other hereditaments in England or Wales as aforesaid, for any loss which they have and will respectively sustain by reason of the abolition of such fines; and all such compensations, whether annual or in gross, shall be issued and paid and payable out of and charged and chargeable upon the consolidated fund of the united kingdom of Great Britain and Ireland: Provided always, That an account of all such compensations shall within fourteen days next after the same shall be so granted be laid before the commons house of parliament, if parliament shall be then assembled, or if parliament shall not be then assembled then within fourteen days after the meeting of parliament them next following.

VIII. And whereas the receiver general of alienation fines, prior to 2,0001. hereto- the commencement of the year one thousand eight hundred and thirtyfour, paid to the keeper or clerk of the hanaper in the court of chancery. or to his deputy, the sum of two thousand pounds per annum out of the alienation fines monies received for fines at the alienation office upon writs of covenant and writs of entry, towards defraying the salaries, allowances, and other payments charged upon the said keeper or clerk of the hanaper by acts of parliament and other authorities: And whereas in consequence of the abolition of fines and recoveries the said receiver general has not been enabled to pay the said sum since the commencement of the year one thousand eight hundred and thirty-four, and it is necessary that provision should be made for charging it upon the consolidated fund; be it therefore enacted, That it shall be lawful for the lord high treasurer or commissioners of his Majesty's treasury for the time being, if he or they shall think proper, to direct a sum not exceeding two thousand pounds per annum to be charged upon the consolidated fund of the

united kingdom of Great Britain and Ireland, and to be issued and paid and payable to the keeper or clerk of the hanaper in the court of chan- 5 & 6 W. 4, cery, or to his deputy, at such times and in such portions as the said lord high treasurer or the commissioners of his Majesty's treasury may direct, to enable the said keeper or clerk of the hanaper, or his deputy, to provide for and discharge the salaries, allowances, and other payments charged upon and payable in the said office of the hanaper, the first payment of two thousand pounds per annum, or such part thereof as may be required, to be reckoned and be payable from the first day of January one thousand eight hundred and thirty-four.

No. XVI. c. 82.

IX. And whereas by the operation of this act the emoluments of the Compensation acting cursitors of the court of chancery will be entirely taken away, for loss of emoand it is reasonable and fit that compensation should be made to the luments to persons now holding those situations, for the loss thereof; be it there- acting cursitors fore enacted, That it shall and may be lawful for the lord high treasurer of the court of or any three or more of the commissioners of his Majesty's treasury for chancery to be the time being, by warrant under his or their hands, to order and direct paid out of the that such annual or other compensation as to him or them, in their dis-consolidated cretion, shall seem just and reasonable, shall be made to the persons fund. now performing the duties of acting cursitors of the court of chancery, for any loss of emoluments arising from such employment which they may respectively sustain by reason of the abolition of the offices of the cursitors of the said court by the provisions of this act, and such compensations, whether annual or in gross, shall be issued and paid and payable out of and be charged and chargeable upon the consolidated fund of the united kingdom of Great Britain and Ireland: Provided always, That an account of such compensations shall within fourteen days next after the same shall be so granted be laid before the commons house of parliament, if parliament shall be then assembled, or if parliament shall not be then assembled then within fourteen days after the meeting of parliament then next following.

X. And whereas by the operation of an act passed in the second year Cursitors of the of the reign of his present Majesty, intituled An Act for Uniformity of court of chan-Process in Personal Actions in His Majesty's Courts of Law at West-cery abolished minster, and of another act passed in the third and fourth years of the from and after reign of his present Majesty, intituled An Act for the Abolition of Fines 31st December and Recoveries, and for the Substitution of more simple Modes of Assurance, 1835, and the business of the cursitors of the high court of chancery has been duties transgreatly diminished, and it is expedient that their offices should be ferred to petty abolished, and the few remaining duties transferred to some other bag office. abolished, and the few remaining duties transferred to some other 2 W. 4, c. 39. officer belonging to the said court; be it therefore enacted, That from 3 & 4 W. 4, and after the said thirty-first day of December the offices of the cursi- c. 74. tors of the said high court of chancery shall utterly cease and determine, and all and every the duties of the said cursitors shall be performed by the clerks of the petty bag office in the said court for the time being, and all the acts to be done by the said clerks of the petty bag office in the performance of the duties of the said cursitors, from and after the said thirty-first day of December, shall, in all respects, and to all intents and purposes, have the same force and effect as if the same had been done and performed by the said cursitors or by their deputies.

XI. That the several records, books, and other documents of and Records, &c. concerning the duties and business of the offices of the said cursitors of the cursitors shall, on or before the said thirty-first day of December, be delivered by transferred to the said cursitors or their deputies into the hands and possession of the the clerks of said clerks of the petty bag office, to be by them kept and preserved for the petty bag the same uses and purposes as the said records, books, and other documents have been heretofore kept and preserved in the office of the said cursitors.

XII. That it shall be lawful for the said clerks of the petty bag office Clerks of the for the time being, from and after the said thirty-first day of December, petty bag to demand and receive the same fees for all acts, matters, and things office to rethem.

General Courts of Common Law, Court Houses, Judges. [Part IV.

No. XVI. c. 82. sitors for all acts done by

done, performed, and executed by them as the several cursitors whose 5 & 6 W. 4, offices are hereby abolished have been accustomed to demand and receive; and the said clerks of the petty bag office for the time being are hereby required to account for all such fees received by them to the ceive the same said lord high treasurer or commissioners of his Majesty's treasury, at fees as the cur- such times and in such manner as he or they may direct; and the said lord high treasurer or commissioners of his Majesty's treasury is and are hereby authorized and empowered to allow the clerks of the petty bag office for the time being such remuneration for the performance of the duties hereby imposed upon them as he or they shall think reasonable and proper.

CLASS II.

ATTORNEYS AND OTHER OFFICERS—PROCHEIN AMY.

[No. I.] 1 W. 4. c. 70.—An Act for the more effectual Administration of Justice in England and Wales.

[23rd July, 1830.]

X. That all persons admitted or admissible to practise as attornies in Attornies of the courts of king's bench and common pleas shall be admissible in like king's bench or manner as attornies of the court of exchequer, and be admitted and al- common pleas lowed to practise there as such, upon application to the barons of that may practise in court, without being obliged to employ any clerk in court in the capacity the exchequer of attorney of the court of exchequer, any law or usage to the contrary in like manner. notwithstanding; and that it shall be lawful for the barons of the said Fees of clerks. court, and they are hereby required, to distinguish by their rules and orders the fees which shall continue to be taken by the sworn and side clerks of the court for the duties performed as officers of the court, similar to the duties of the officers of the other superior courts, from such fees and charges as shall be allowed to be taken by the attornies so admitted to practise, so that the amount of such fees and charges upon the whole do not exceed the amount and rate of such fees and charges as are now allowed upon the taxation of costs. (1)

XI. That in all cases relating to the practice of any of the courts of Judges may king's bench, common pleas, or exchequer, in matters over which the make rules for said courts have a common jurisdiction, or of or relating to the practice regulation of of the court of error before mentioned, it shall be lawful for the judges courts (2). of the said courts jointly, or any eight or more of them, including the chiefs of each court, to make general rules and orders for regulating the proceedings of all the said courts; which said rules and orders so made shall be observed in all the said courts; and no general rule or order respecting such matters shall be made in any manner, except as

aforesaid.

XVI. That all persons who on or before the passing of this act shall Attornies of have been admitted as attornies and shall then be practising in any of courts of great the courts of sessions or great sessions in the county palatine of Chester sessions alor in Wales respectively, shall be entitled, upon the payment of one lowed to pracshilling, to have their names entered upon a roll to be kept for that tise, on paypurpose in each of the superior courts of Westminster, and thereupon ment of certain be allowed to practise in such courts in all actions and suits against persons residing, at the commencement of the suit, within the county of Chester or principality of Wales; and that all persons having served or now actually serving as clerks to such attornies under articles, and who would otherwise be entitled to be admitted as attornies of the said courts of great sessions, may, on or before the expiration of six months after the passing of this act, be admitted as attornies of the said courts at Westminster, for the purpose of practising there, in the like matters

⁽¹⁾ The privileges of the sworn and side clerks are not abolished by this statute nor by the 2 & 3 W. 4, c. 110; they may, therefore, still arrest other attorneys who become indebted to them by capius of privilege, in the same way as they did before. Scokes v. White, 2 Dowl. P. C. 703; 1 C. M. & R. 223, S. C.

⁽²⁾ Numerous rules of court have been from time to time made by the judges in pursuance of the power given them by the above clause.

No. I.

Attornies of great sessions may be admitted as attornies at Westminster.

only, without payment of any greater duty than would be now payable 1 W. 4, c. 70. by law upon their admission as attornies of such courts of great sessions respectively.

> XVII. That all attornies and solicitors now actually admitted and practising in any of the said courts of sessions or great sessions may be admitted as attornies of the said courts at Westminster, in like manner as is now or may be hereafter prescribed for the admission of other persons as attornies therein, upon payment of such sum for duty, in addition to the sum already paid by them in that behalf, as shall, together with such latter sum, amount to the full duty required upon admission of attornies in the said courts at Westminster; and that all persons having served or now actually serving under articles as clerks to such attornies or solicitors of any of the said courts of sessions or great sessions, may, at the expiration of their respective times of service, be admitted as attornies of the said courts at Westminster, in like manner and upon payment of the like duty, as if they had served under articles as clerks to attornies of the last-mentioned courts.

Masters extrain courts abolished by this act allowed to exercise same powers, upon certain conditions.

XVIII. That any person who shall have been duly appointed a comordinary acting missioner for taking affidavits, or a master extraordinary in chancery of any of the courts abolished by this act, shall, upon producing his appointment before the proper officer, and upon the payment of one shilling, be entitled to have his name inserted in a list to be kept for that purpose of such commissioners or masters extraordinary, as the case may be, and to exercise, within the limits of his existing commission or commissions, the same power and authority, and for the same purposes, as if his commission had issued from one of his Majesty's courts at Westminster.

> [No. II.] 5 & 6 W. IV. c. 11.—An Act to indemnify such Persons in the United Kingdom as have omitted to qualify themselves for Offices and Employments, and for extending the Time limited for those Purposes respectively until the Twenty-fifth Day of March One thousand eight hundred and thirty-six; to permit such Persons in Great Britain as have omitted to make and file Affidavits of the Execution of Indentures of Clerks to Attornies and Solicitors to make and file the same on or before the First Day of Hilary Term One thousand eight hundred and thirty-six; and to allow Persons to make and file such Affidavits, although the Persons whom they served shall have neglected to take out their Annual Certificates. [3rd July 1835.]

Indemnity to persons wno have paid the duties on indentures to serve as clerks to attornies, &c., but have neglected to cause affidavits thereof to be made.

VI. WHEREAS many persons who may have paid the proper stamp duties, either before or within six months after the execution of the contracts in writing entered into by them to serve as clerks to attornies or solicitors, scriveners, or notaries public in Great Britain, have omitted to cause affidavits to be made, and afterward to be filed in the proper office, of the actual execution of such contracts, and have also omitted to cause such contracts and the indentures thereof to be enrolled within the time in which the same ought to have been done; and many solicitors, attornies, notaries public, and others have omitted to take out annual certificates, or to enter the same in the proper office; and many infants and others may thereby incur certain disabilities: For preventing thereof, and relieving such persons, be it enacted, That every person who shall, either before or within six months after the execution of such contract or indenture, have paid the proper stamp duty in that behalf. and who at the passing of this act shall have neglected or omitted to

No. II. c. 11.

cause any such affidavit or affidavits as aforesaid to be made and filed, or such contract or indenture to be enrolled, and who, on or before the 5 & 6 W. 4, first day of Hilary term one thousand eight hundred and thirty-six, shall cause such contract or indenture to be enrolled with the proper officer in that behalf, and one or more affidavit or affidavits to be made, and afterwards to be filed, in such manner as the same ought to have been made and filed in due time, shall be and is hereby indemnified, freed, and discharged from and against all penalties, forfeitures, incapacities, and disabilities in or by any act or acts of parliament mentioned, and incurred or to be incurred for or by reason of such neglect or omission; and every such affidavit and affidavits so to be made, and which shall be duly filed on or before the first day of Hilary term one thousand eight hundred and thirty-six, shall be as effectual to all intents and purposes as if the same had been made and filed within the respective times the same ought, by the laws now in being for that purpose, to have been made and filed; and that the respective officer or officers who ought to receive, file, enter, or register such contract or indenture, or affidavit or affidavits, shall not refuse to receive, file, enter, or register the same by reason that the attorney, solicitor, or notary public to whom such infant or other person shall have been articled or have contracted to serve, shall have neglected to take out his annual certificate, or to register the same, but such officer or officers are hereby directed and empowered to receive, file, enter, or register the same, notwithstanding such omission; and that every person who shall have regularly served any Neglect of atattorney or attornies, solicitor or solicitors, notary public or notaries tornies, &c. in public, for the term of years required by law, shall not be prevented or taking out disqualified from being admitted an attorney, solicitor, or notary public, their annual by reason of any omission of the person or persons to whom he served certificates not for the same term, or for any part thereof, having so neglected to take to disqualify out his annual certificate, or to register the same, provided that such who have person is otherwise entitled to be created and admitted to such office by served them. the laws now in force relating thereto.

VII. That in case the attorney, solicitor, proctor, or notary to whom Defects in the any person shall have duly served his clerkship under articles in writing service, &c. of for that purpose shall after such service of the clerk be struck off the attornies not to roll in consequence of some defect in the service under the articles of disqualfy perclerkship or of the admission and enrolment of such attorney, solicitor, sons who have proctor, or notary, the person who has so duly served his clerkship shall served them. not be prevented or disqualified from being admitted and enrolled as an attorney, solicitor, proctor, or notary, nor liable to be struck off the roll, if admitted, by reason of any such defect as aforesaid, provided that such clerk or person be otherwise entitled to be admitted and enrolled according to the laws now in force relating thereto.

VIII. That no person who has been admitted and enrolled and in Applications actual practice as an attorney, solicitor, proctor, or notary shall be liable for striking atto be struck off the roll for or on account of any defect in the articles of tornies off the clerkship, or the registry thereof, or the service under such articles, or roll for defect of his admission and enrolment, unless the application for striking him to be made off the roll be made within twelve months from the time of his admission within twelve and enrolment, provided that such articles, registration, service, admis- months of ad-

sion, or enrolment be without fraud.

IX. Provided always, That this act or any thing herein contained Not to restore shall not extend or be construed to extend to restore or entitle any per-persons to any son or persons to any office or employment, benefice, matter, or thing office avoided whatsoever, already actually avoided by judgment of any of his Majesty's by judgment. courts of record, already legally filled up and enjoyed by any other person; but that such office or employment, benefice, matter, or thing, so avoided or legally filled up and enjoyed, shall be and remain in and to the person or persons who is or are now or shall at the passing of this act be legally entitled to the same, as if this act had never been made.

X. That in case any action, suit, bill of indictment, or information General issue.

No. II. c. 11.

shall from and after the passing of this act be brought, carried on, or 5 & 6 W. 4, prosecuted against any person or persons hereby meant or intended to be indemnified, recapacitated, or restored, for or on account of any forfeiture, penalty, incapacity, or disability whatsoever incurred or to be incurred by any such neglect or omission, such person or persons may plead the general issue, and upon their defence give this act and the special matter in evidence upon any trial to be had thereupon.

For the clauses of the Uniformity of Process act relating to attorneys,

see post, Part IV., Class 3.

By a rule of Hilary term, 2 W. 4, a special admission of prochess amy, or guardian to prosecute or defend for an infant, shall not be deemed an authority to prosecute or defend in any but the particular action or actions specified.

CLASS III.

ORIGINAL WRIT, PROCESS, ARREST, IMPRISONMENT, BAIL, APPEARANCE.

[No. I.] 1 W. IV. c. 33.—An Act to continue for one Year and from thence until the end of the then next Session of Parliament, the Act for the Relief of Insolvent Debtors in Ireland.

[No. II.] 1 W. IV. c. 38.—An Act to continue and amend the Laws for the Relief of Insolvent Debtors in England (1). [16th July 1830.]

WHEREAS an act was passed in the seventh year of the reign of his present Majesty, intituled An Act to amend and consolidate the Laws 7 G 4, c 57. for the Relief of Insolvent Debtors in England; and it is expedient to continue the said act; be it therefore enacted, &c. and by the authority Recited act of the same, That the said act shall be and the same is hereby continued. nued.

II. That all provisions in the said act contained, concerning the re- Certain provimoval of assignees and the appointment of new assignees, and con-sions in recited cerning assignees' accounts, and concerning the amount of debts, and acts to extend claims to receive dividends, and the ascertaining thereof, and concerning to all persons all matters to be done and observed, when it may appear to the court for petitioning. relief of insolvent debtors in any case that all debts have been discharged, and concerning the proof or evidence of conveyances and assignments, and of all proceedings had or being of record in the said court, shall be deemed to extend to the cases of all persons who petitioned under the several acts recited in the said act, as well as of persons petitioning under the said act.

III. And whereas doubts have arisen whether warrants of attorney, Warrants of executed by insolvent debtors before adjudication made in the matters attorney exeof their petitions pursuant to the several acts passed for their relief, are cuted by prito be deemed secret warrants of attorney within the meaning and pro-soners under visions of an act passed in the third year of the reign of his present acts for their Majesty, intituled An Act for preventing Frauds on Creditors by secret relief declared not to be within Warrants of Attorney to confess Judgment; it is hereby declared and en- 3 Geo. 4, c. 39. acted, That such warrants of attorney, executed and to be executed as aforesaid, are not within the meaning and provisions of the said lastmentioned act, and that the same have been, are, and shall be valid and effectual; any thing in the said last-mentioned act, or in any act extend-

IV. And whereas it is for the benefit of prisoners petitioning the said Adjudication court, and especially of those whose cases may be heard before a com- may be made missioner on circuit, or before justices of the peace at their quarter ses- conditional in

ing the provisions thereof, notwithstanding.

certain cases.

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No. I. 1 W. 4, c. 38.

sions in Wales or the town of Berwick-upon-Tweed, where it may appear in the case of any such prisoner, on the hearing, that the proof of notice to creditors is imperfect, or that any other matter or thing ought to be done by or on behalf of such prisoner before he or she is actually discharged from custody, that nevertheless adjudication should he made conditional upon such matter or thing being performed, and that the hearing of such case should stand adjourned only on failure therein: And whereas doubts have arisen as to the competency of proceeding in manner above mentioned; it is hereby declared and enacted, That where it shall appear to the said court, commissioner, or justices, at the hearing of the matters of the petition of any such prisoner, that certain matters or things ought to be performed by or on behalf of such prisoner, before he or she is entitled to be actually discharged from custody, but that nevertheless it is expedient not to adjourn the hearing of such case absolutely to some future occasion without the opportunity of such discharge being sooner had by doing such things as aforesaid, it shall and may be lawful for the said court, commissioner, or justices, to pronounce adjudication, without then issuing the order and warrant pursuant thereto, and that such adjudication may be directed to be conditional on the performance of such matters or things as aforesaid, and that on the nonperformance thereof the hearing of such case shall stand adjourned according to the direction made in that behalf; and that all proceedings heretofore had in manner aforesaid, in the matters of the petitions of any prisoners petitioning the said court, under any act or acts for the relief of insolvent debtors, shall be deemed good and valid to all intents and purposes.

Court may direct conveyance by provisional assignee where no assignee is appointed.

V. And whereas it may often happen that some interest in lands and tenements may become vested in the provisional assignee of the said court, which appears to be of no value to creditors, but nevertheless it may be reasonable and expedient that the said provisional assignee should make or join in making some conveyance or assignment of the same, and that the same should be done without the expence attending advertisements and meetings of creditors as prescribed by the said firstmentioned act in certain cases; be it therefore enacted, That it shall and may be lawful for the said court, at any time after the day gazetted for the hearing of the matters of the petition of any insolvent debtor, if no creditor shall have become assignee of his or her estate and effects, and if it shall appear fit, upon such notice given by advertisement or otherwise to the creditors or any of them as the said court shall in any case direct, to order the said provisional assignee to make or join in making any conveyance or assignment of any such interest as to the said court may appear just and reasonable, without observing the provisions of the said first-mentioned act as to the sale of real property by the provisional or other assignees of the estates of insolvent debtors.

Assignments made by provisional assignees declared valid.

act.

Assignments by provisional assignee to be in the form annexed to this

VI. And it is further declared and enacted, That all assignments and conveyances heretofore made or to be made by such provisional assignee in any such cases, by order of the said court, shall be and the same are hereby declared to be good and valid to all intents and purposes; any thing in the said first-mentioned act or in any other act to the contrary notwithstanding.

VII. And whereas it is expedient to prescribe a form of conveyance and assignment from the provisional assignee to any other assignee or assignees when appointed by the said court, and also to remove any doubts as to the validity or effect of any conveyances or assignments at any time heretofore made and executed by the said provisional assignee by virtue of any order of the said court; be it therefore declared and enacted, That every conveyance and assignment hereafter to be made and executed by the provisional assignee for the time being to any other assignee or assignees, by virtue of any order of the said court, shall be in such form as is to this act annexed; and that every such conveyance and assignment, and also every conveyance and assignment at any time heretofore made and executed by the provisional assignee for the time

Class III.] Original Writ, Process, Arrest, Imprisonment, &c.

being, in obedience to any order of the court for relief of insolvent debtors, shall be deemed and taken to be valid and effectual to all intents 1 W. 4, c. 38. and purposes whatever, and fully and effectually to vest and to have vested all and every estate and estates, real and personal, and all and every right, title, interest, and trust in and to the same, of what nature or kind soever, to which the insolvent debtor in each case respectively shall or may be or shall or may have been entitled in any manner or by any means whatsoever, or which such insolvent debtor shall or may be or shall or may have been required by law to convey and assign in trust for his or her creditors.

No. II.

VIII. And whereas it may happen that the chief or other commis- In case of illsioner for the relief of insolvent debtors may, by illness or other reason-able cause, be for a time disabled from performing his duties, whereby another person the business of the said court would be delayed: And whereas if such may be apdisability should occur to any such commissioner proceeding on his pointed to circuit, the suitors of the said court would be much prejudiced, unless execute the some person should be authorized forthwith to undertake the duties of duties. the said chief or other commissioner on his circuit; be it therefore further enacted, That if such disability as aforesaid shall occur to such chief or other commissioner at any time, not being the time of his circuit, it shall be lawful for any fit person, being a barrister at law, and appointed by one of his Majesty's principal secretaries of state, to execute the duties of such chief or other commissioner during such disability; and that if such disability shall occur during the time appointed for the circuit of such chief or other commissioner, it shall be lawful for any fit person, being a barrister at law, and nominated by such chief or other commissioner, to execute the duties of such chief or other commissioner on such circuit as aforesaid during such disability; and that all things done according to the provisions of this act and of the said act hereby continued, by such person so appointed or nominated as aforesaid, as the case may be, during such disability as aforesaid, shall be good and valid to all intents and purposes as if the same had been done by such chief or other commissioner: Provided always, that such chief or other commissioner, if such disability as aforesaid shall occur during the time appointed for his circuit, shall forthwith state the same, together with the cause thereof, and such nomination as aforesaid, in writing, and shall subscribe such statement, and shall send the same forthwith by his Majesty's post to one of his Majesty's principal secretaries of State.

X. That during the continuance of this act no person shall be entitled Prohibiting to be discharged as an insolvent debtor, on his or her own petition or ap- persons from plication, under or by virtue of the statute passed in the thirty-second being disyear of the reign of king George the second, commonly called "The charged under Lords Act," or of any other statute since passed for extending or con- 32 G. 2, c. 28. tinuing the same.

XI. That the said recited act and this act shall be and the same are Continuance of hereby continued for two years, and from thence to the end of the then act.

next session of parliament.

SCHEDULE TO WHICH THIS ACT REFERS.

Form of Conveyance and Assignment by the Provisional Assignee

THIS indenture, made the day of in the year of our Lord provisional assignee of the estate between and effects of insolvent debtors in England, of the one part, and of the other part. Whereas by indenture bearing date the day of between an insolvent debtor, then a prisoner in the such provisional assignee as one part, and the said aforesaid, of the other part, all the estate, right, title, interest, and trust

Original Writ, Process, Arrest, Imprisonment, &c. [Part IV.

No. II.

of the said insolvent debtor in and to all the real and personal estate and 1 W. 4, c. 38. effects of the said insolvent debtor, in possession, reversion, remainder, or expectancy, except the wearing apparel and other such necessaries of the said insolvent debtor and family not exceeding in the whole the value of twenty pounds, were, among other things, conveyed and assigned to the said as such provisional assignee as aforesaid, his successors and assigns: Now this indenture witnesseth, that in obedience to an order of the court for relief of insolvent debtors, he the said at the request and with the consent of the said testified by sealing and delivering these presents, hath conveyed, assigned, transferred, and set over, and by these presents doth convey, assign, transfer, and set over, unto the his heirs, executors, administrators, and assaid signs, all the estate, right, title, interest, and trust of, in, and to all the real and personal estate and effects whatsoever and wheresoever, and of what nature or kind soever, present and future, which by virtue of the said herein-before in part recited indenture now are in any way vested in the said as such provisional assignee as aforesaid, together with their and every of their rights, members, and appurtenances; to have and to hold, receive and take, all and every the said estate, effects, and premises, and every part thereof, conveyed, assigned, transferred, and set over, or mentioned or intended to be hereby conveyed, assigned, transferred, or set over, with their and every of their rights, members, and appurtenances, unto the said his heirs, executors, administrators, and assigns, according to the respective natures, properties, and tenures thereof; in trust nevertheless for the use, benefit, and advantage of the creditors of the said insolvent debtor who shall be entitled to share in a dividend of the said estate and effects, and to and for such other uses, intents, and purposes, and in such manner and form, as are in and by the said indenture expressed of and concerning the same, and to and for no other use, intent, or purpose whatsoever. In witness whereof the said parties have hereunto set their hands and seals, the day and year first above written.

Signed, sealed, and delivered by the in the presence of Signed, sealed, and delivered by the in the presence of

[No. III.] 1 W. IV. c. 70.—An Act for the more effectual Administration of Justice in England and Wales.

[23rd July 1830.]

Justification of bail before judge in chambers.

Regulations as to rendering in discharge of bail, defendant not being in custody.

XII. That bail may be justified before a judge in chambers, or in some other convenient place to be by him appointed, as well in term as in vacation, and whether the defendant be actually in custody or not.

XXI. That a defendant, who shall have been held to bail upon any mesne process issued out of any of his Majesty's superior courts of record, may be rendered in discharge of his bail, either to the prison of the court out of which such process issued, according to the practice of such court, or to the common gaol of the county in which he was so arrested, and the render to the county gaol shall be effected in the manner following; that is to say, the defendant, or his bail, or one of them, shall for the purpose of such render obtain an order of a judge of one of his Majesty's superior courts of Westminster, and shall lodge such order with the gaoler of such county gaol, and a notice in writing of the lodgment of such order, and of the defendant's being actually in custody of such gaoler by virtue of such order, signed by the defendant,

or the bail, or either of them, or by the attorney or agent of any or either of them, shall be delivered to the plaintiff's attorney or agent, 1 W. 4, c. 70. and the sheriff or other person responsible for the custody of debtors in such county gaol shall, on such render so perfected be duly charged with the custody of such defendant, and the said bail shall be thereupon

wholly exonerated from liability as such.

XXII. That a defendant who shall hereafter be in custody of the As to rendering gaoler of the county gaol of any county in England or in the principa- in discharge of lity of Wales, by virtue of any proceeding out of any of his Majesty's bail, defendant superior courts of record, may be rendered in discharge of his bail in being already in any other action depending in any of the said courts, in the manner custody. herein-before provided for a render in discharge of bail; and the keeper of such gaol, or such sheriff or other person responsible for the custody of debtors as aforesaid, shall on such render be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such.

[No. IV.] 2 W. 4, c. 39.—An Act for Uniformity of Process in Personal Actions in His Majesty's Courts of Law [23rd May 1832.] at Westminster (1).

WHEREAS the process for the commencement of personal actions in His Majesty's superior courts of law at Westminster is, by reason of its great variety and multiplicity, very inconvenient in practice; for Serviceable remedy thereof be it enacted, &c., That the process in all such actions process for the commenced in either of the said courts, in cases where it is not intended commenceto hold the defendant to special bail, or to proceed against a member of ment of perparliament according to the provisions contained in the statute passed sonal actions. in the sixth year of the reign of His late Majesty King George the Fourth, intituled An Act to amend the Laws relating to Bankrupts, shall, whether the action be brought by or against any person entitled to the privilege of peerage or of parliament, or of the court wherein such action shall be brought, or of any other court, or to any other privilege, or by or against any other person, be according to the form contained in the schedule to this act annexed marked No. 1, and which process may issue from either of the said courts, and shall be called a writ of summons (2); and in every such writ, and copy thereof, the place and county of the residence or supposed residence of the party defendant, or wherein the defendant shall be or shall be supposed to be, shall be mentioned (3); and such writ shall be issued by the officer of the said courts respectively by whom process serviceable in the county therein mentioned hath been heretofore issued from such court (4); and every such writ may be served in the manner heretofore used in the county therein mentioned, or within two hundred yards of the border thereof (5), and not elsewhere, and the person serving the same shall and is hereby required to indorse on the writ the day of the month and week of the service thereof.

(1) See post, the 3 & 4 W. 4, c. 67, amending the present act.

And a defendant cannot avail himself of a ground of defence not perfected until after the writ was issued; Worsick v. Beswick, 10 B. & C. 676.

(3) The addition of the defendant need not be inserted in the writ of summons; it is sufficient to

state his residence; Morris v. Smith, 2 Cr. M. & R. 120.

(5) See the 20th section, post.

⁽²⁾ The writ of summons is now the commencement of the action, and that is reckoned from the time when the writ is sued out, and not from the time when it is served; Alston v. Underhill, 2 Dowl. 26; 3 Tyr. 427; 1 Cr. & M. 492.

The declaration must correspond with the form of action specified in the writ, and if not it is irregular, and the court will set it aside, leaving the plaintiff to declare on the writ if he can do so, according to his cause of action; Thompson v. Dicas, 3 Tyr. 873; 1 Cr. & M. 768.

⁽⁴⁾ The part within brackets is repealed by the 3 & 4 W. 4, c. 67, s. 1, post.

No. IV. Mode of apviceable pro-

cess. Appearance may be enforced by writ of distringus in case a defendant cannot be served with the writ of summons.

II. That the mode of appearance to every such writ, or under the 2 W. 4, c. 39. authority of this act, shall be by delivering a memorandum in writing according to the form contained in the said schedule, and marked No. 2, such memorandum to be delivered to such officer or person as the pearance to ser- court out of which the process issued shall direct, and to be dated on the day of the delivery thereof

III. That in case it shall be made appear by affidavit, to the satisfaction of the court out of which the process issued, or in vacation, of any judge of either of the said courts, that any defendant has not been personally served with any such writ of summons as herein-before mentioned, and has not, according to the exigency thereof, appeared to the action, and cannot be compelled so to do without some more efficacious process, then and in any such case it shall be lawful for such court or judge to order a writ of distringas (1) to be issued, directed to the sheriff of the county wherein the dwelling house or place of abode of such defendant shall be situate, or to the sheriff of any other county, or to any

(1) In order to obtain the distringas, there must be an affidavit, and it must show that at least three attempts have been made to serve the defendant with the writ of summons, by calling at his dwelling-house or place of abode; Anon. 1 Dowl. 513; Thomas v. Thomas, 2 Mo. & S. 730; Johnson v. Rouse, 1 C. & M. 26; 1 Dowl. 641, S. C. Service at the office of an employer, in such a case, not being sufficient; Thomas v. Thomas, 2 Mo. & S. 730. It must also show that on each of the first two calls, deponent apprised the person whom he saw of the nature of his business; Johnson v. Rouse, 1 Dowl. 641; 1 C. & M. 26; and made an appointment to call again, in order to see the defendant; ib.; and he must appoint the day and hour at which he will make his subsequent calls; Willis v. Bowman, 2 Dowl. 413; and that on the last call (which must appear to have been eight days at least before the application to the court; Brian v. Stretton, 3 Tyr. 163; 1 C. & M. 74; 1 Dowl. 642,) a copy of the writ was left at the defendant's residence; Anon. 1 Dowl. 513; Street v. Lord Alvanley, ib. 638; 3 Tyr. 162; 1 C. & M. 27, S. C.; Hill v. Mould, 3 Tyr. 162; 2 Dowl. 10; 1 C. & M. 617, S. C. (held on conference with all the judges.) And to found an application for a distringas, it must be shown that the defendant is at home, or in the neighbourhood, during the time the party calls to serve him; Price v. Bower, 2 Dowl. 1.

The answers given to the deponent, on the different applications, must be stated in the affidavit; Pagden v. Whalley, 1 Leg. Ex. N. S. cited in Tidd, Sup. 1833, 79, per Bailey, B. And he must not only swear that he has not been able to serve defendant with a copy of the writ, but must state in his affidavit circumstances to satisfy the court, or a judge, that the defendant keeps out of the way to avoid being served; Anon. Dowl. 513; Johnson v. Rouse, 1 C. & M. 26; 1 Dowl. 641; 3 Tyr.

161, S. C.

When the residence of the defendant is unknown, endeavours must be made to serve the defendant personally, before the distringues can be obtained. What are sufficient endeavours to entitle a plaintiff to a distringas in such a case, does not appear to have been yet decided by the courts; 1 Dowl. 555.

The attempts to serve a summons in order to obtain a distringas may be made on the same day, it appearing that the defendant is keeping out of the way; White v. Western. 2 Dowl. 451. If, upon calling to serve a writ of summons, the answer given is, that the defendant is out of town, it must be shown to the court from inquiries made that there is reason to believe the answer to be false; Smith v. Hill, 2 Dowl. 225. A distringus will not be granted on an affidavit, merely statung the defendant to be absent in Ireland, without showing that he has gone there to avoid his creditors, although he may have a residence in town, at which unsuccessful attempts to serve him have been made; Evans v. Fry, 3 Dowl. 581.

The return of non est inventus or nulla bona is not alone sufficient to entitle the plaintiff to an appearance; Daniels v. Varity, 3 Dowl. 26.

In executing a distringas, it is sufficient that the sheriff takes all the property on the premises, though it amount to less than forty shillings, and on the sheriff's return the plaintiff will be entitled

to enter an appearance; Jones v. Dyer, 2 Dowl. 445.

Where a defendant is abroad, a distringus may be obtained on a proper affidavit, either to compel his appearance, or for the purpose of proceeding to outlawry. If he be not abroad, a distringas for the purpose of outlawry, will not, it seems, be granted; and where there is reason to believe he is abroad, a distringas to compel an appearance, it is said, will not be allowed; one state of circumstances or the other must be made out; Fraser v. Case, 1 Dowl. 725; 9 Bing. 464; 2 Moore & S. 730, S. C. Accordingly, in a case in which it was not clear, on the face of the affidavit, whether the defendant was in this country or abroad, the court put the plaintiff to make his election as to the purpose for which he sought to obtain the distringas; ib. The affidavit must also state, when the defendant is abroad, not only that he went thither for the purpose of avoiding the demands of his credi. tors, but it must likewise satisfy the court, or a judge, by a statement of the circumstances, that he keeps

other officer to be named by such court or judge, in order to compel the appearance of such defendant; which writ of distringuas shall be in the 2 W.4, c. 39. form, and with the notice subscribed thereto, mentioned in the schedule to this act, marked No. 3; which writ of distringas and notice, or a copy thereof, shall be served on such defendant, if he can be met with, or, if not, shall be left at the place where such distringas shall be executed; and a true copy of every such writ and notice shall be delivered together therewith to the sheriff or other officer to whom such writ shall be directed; and every such writ shall be made returnable on some day in term, not being less than fifteen days after the teste thereof, and shall bear teste on the day of the issuing thereof, whether in term or in vacation; and if such writ of distringues shall be returned non est inventus and nulla bona, and the party suing out such writ shall not intend to proceed to outlawry or waiver, according to the authority herein-after given, and any defendant against whom such writ of distringas issued shall not appear at or within eight days inclusive after the return thereof, and it shall be made appear by affidavit to the satisfaction of the court out of which such writ of distringas issued, or, in vacation, of any judge of either of the said courts, that due and proper means were taken and used to serve and execute such writ of distringas, it shall be lawful for such court or judge to authorize the party suing out such writ to enter an appearance for such defendant, and to proceed thereon to judgment and execution. (1)

No. IV.

IV. That in all such actions wherein it shall be intended to arrest (2) Bailable proand hold any person to special bail who may not be in the custody of the sess for the marshal of the marshalsea of the court of king's bench or of the warden of commencethe fleet prison, the process shall be by writ of capias according to the form ment of percontained in the said schedule and marked No. 4; and so many copies of sonal actions. such process, together with every memorandum or notice subscribed thereto, and all indorsements thereon, as there may be persons intended to be arrested thereon or served therewith, shall be delivered therewith to the sheriff or other officer or person to whom the same may be directed, or who may have the execution and return thereof, and who shall, upon or forthwith after the execution of such process, cause one such copy (3) to be delivered to every person upon whom such process shall be executed by him, whether by service or arrest, and shall indorse on such writ the true day of the execution thereof, whether by service or arrest (4); and if any defendant be taken or charged in custody upon any such process, and imprisoned for want of sureties for his appearance thereto, the plaintiff in such process may before the end of the next term after the detainer or arrest of such defendant, declare against such defendant, and proceed thereon in the manner and according to the directions con-

out of the way to avoid being served; Simpson v. Lord Graves, 2 Dowl. 10. But where the defendant has gone abroad to avoid his creditors, leaving a servant in his house, a distringus will be granted, though he has not been served with the writ; Moon v. Thynne, 3 Dowl. 153.

A distringue for proceeding to outlawry may be grantable under circumstances which would not entitle plaintiff to a distringas to compel an appearance; Jones v. Price, 2 Dowl. 42, and see 3 Tyr.

822; Hewit v. Milton, 1 C. & M. 720.

(2) In what cases a party may be arrested; see 7 & 8 G. 4, c. 71; Evans's Statutes, Part IV.

Class III.

(3) The copy must strictly correspond with the capias, for it cannot be amended after service; Bufield v. Street, 10 Bing. 27; 2 Dowl. 739. The omission of the day of the month in the teste of the copy is fatal; Perring v. Turner, 3 Dowl. 15.

(4) An indorsement on the copy of a capias served on the defendant at the time of the arrest, which required him to pay the debt within four days from the arrest in service thereof, is a sufficient

compliance with the act; Sutton v. Burgess, 3 Dowl. 489.

⁽¹⁾ Where the sheriff has distrained the defendant's goods under a distringas, and the defendant does not appear according to the exigency of the writ, the plaintiff, in making an affidavit of the due execution of the distringas, may enter an appearance for him without leave of the court; Johnson v. Smealey, 1 Dowl. 526, 555; and it would seem that, after the sheriff has levied and returned the issues on the levy, the plaintiff may enter an appearance for the defendant without an affidavit; Page v. Hemp, T. T. 1835, Law Journ. Exch. 230; 10 Leg. Obs. 381, S. C.

c. 21.

tained in a certain act of parliament made in the fourth and fifth years 2 W. 4, c. 39. of the reign of king William and queen Mary, intituled An Act for delivering Declarations against Prisoners: provided always, that it shall be 4 & 5 W. & M. lawful for the plaintiff or his attorney to order the sheriff, or other officer or person to whom such writ shall be directed, to arrest one or more only of the defendants therein named, and to serve a copy thereof on one or more of the others, which order shall be duly obeyed by such sheriff or other officer or person; and such service shall be of the same force and effect as the service of the writ of summons herein-before mentioned, and no other.

Mode of detaining a prisoner in the custody of the marshal or of the warden of the Fleet.

VIII. That when it shall be intended to detain in any such action any person being in the custody of the marshal of the marshalsea of the court of king's bench or of the warden of the fleet prison, the process of detainer shall be according to the form of the writ of detainer contained in the said schedule and marked No. 5; and a copy of such process, and of all indorsements thereon, shall be delivered together with such process to the said marshal or warden to whom the same shall be directed, and who shall forthwith serve such copy upon the defendant personally, or leave the same at his room, lodging, or other place of abode; and such process may issue from either of the said courts, and the declaration thereupon shall and may allege the prisoner to be in the custody of the said marshal or warden, as the fact may be, and the proceedings shall be as against prisoners in the custody of the sheriff, unless otherwise ordered by some rule to be made by the judges of the said courts. (1)

Duration of writs.

Proviso as to Statute of Limitations.

X. That no writ issued by authority of this act shall be in force for more than four calendar months from the day of the date thereof, including the day of such date, but every writ of summons and capias may be continued by alias and pluries, as the case may require, if any defendant therein named may not have been arrested thereon or served therewith: Provided always, That no first writ shall be available to prevent the operation of any statute whereby the time for the commencement of the action may be limited, unless the defendant shall be arrested thereon or served therewith, or proceedings to or toward outlawry shall be had thereupon, or unless such writ, and every writ (if any) issued in continuation of a preceding writ, shall be returned non est inventus, and entered of record within one calendar month next after the expiration thereof, including the day of such expiration, and unless every writ issued in continuation of a preceding writ shall be issued within one such calendar month after the expiration of the preceding writ, and shall contain a memorandum indorsed thereon or subscribed thereto, specifying the day of the date of the first writ; and return to be made in bailable process by the sheriff or other officer to whom the writ shall be directed, or his successor in office, and in process not bailable,

⁽¹⁾ A plaintiff may issue a writ of detainer from and returnable in the court of common pleas, directed to the marshal of the king's bench, Millard v. Millman, 3 Moore & S. 63, 2 Dowl., 723, S. C.; or a writ of detainer may be issued from the court of king's bench, and returnable in that court directed to the warden of the fleet prison; and it is not necessary in either case to bring up the prisoner by habeas corpus into the court from which the writ issued, in order to charge him with a declaration; Barrett v. Harris, 2 Dowl. 186. The writ must be duly directed to the marshal or warden, by the proper description; and where a writ of detainer was directed "to the marshal of our prison of the marshalsea" instead of "the marshal of the marshalsea of our court before us" the defendant was discharged out of custody; Storr v. Mount, 2 Dowl. 417; on account of the doubt whether the intended officer was the gaoler of the palace court, or that of the proper king's bench prison; Storr v. Mount, 2 Dowl. 417. If the existing imprisonment has been occasioned by illegal process on proceeding of the same plaintiff, and not of a third person, a writ of detainer at his suit would be inoperative; Rose v. Tomlinson, 3 Dowl. 55, 56; and in that case a capias should be issued, and an arrest take place at a time and under circumstances that would be clearly legal; Chitty G. P. L., vol. iii. 393. Where a sheriff has arrested a defendant by an illegal act, a contrivance of his officer in one action, he cannot detain him in another; Barratt v. I'rice, 9 Bing. 566; nor can a defendant who has been just discharged by a judge from an illegal writ be arrested is returning; Rex v. Blake, 2 Nev. & Man. 312.

by the plaintiff or his attorney suing out the same, as the case may be. (1)

2 W. 4, c. 39.

XI. And whereas, according to the present practice, in certain cases no proceedings can be effectually had on any writ returnable within four Proceedings on days of the end of any term, until the beginning of the ensuing term, write served or whereby an unnecessary delay is sometimes created; for remedy thereof executed at be it enacted, That if any writ of summons, capias, or detainer issued by certain times. authority of this act shall be served or executed on any day, whether in term or vacation, all necessary proceedings to judgment and execution may, except as herein-after provided, be had thereon, without delay, at the expiration of eight days from the service or execution thereof, on whatever day the last of such eight days may happen to fall, whether in term or vacation: Provided always, That if the last of such eight days shall in any case happen to fall on a Sunday, Christmas day, or any day Proviso for appointed for a public fast or thanksgiving, in either of such cases the Sunday, &c. following day shall be considered as the last of such eight days; and if the last of such eight days shall happen to fall on any day between the Thursday before and the Wednesday after Easter day, then in every such case the Wednesday after Easter day shall be considered as the last of such eight days: Provided also, That if such writ shall be served or executed on any day between the tenth day of August and the twentty-fourth day of October in any year, special bail may be put in by the defendant in bailable process, or appearance entered, either by the defendant or the plaintiff, on process not bailable, at the expiration of such eight days: (2) Provided also, That no declaration, or pleading after declaration, shall be filed or delivered between the said tenth day of Au-

gust and twenty-fourth day of October. (3) XII. That every writ issued by authority of this act shall bear date Date and teste on the day on which the same shall be issued, and shall be tested (4) in of writs. the name of the lord chief justice or lord chief baron of the court from which the same shall issue, or in case of a vacancy of such office, then in the name of a senior puisne judge of the said court, and shall be in- Indorsement of dorsed with the name and place of abode of the attorney (5) actually the name of the suing out the same, and in case such attorney shall not be an attorney attorney or of the court in which the same is sued out, then also with the name and party suing. place of abode of the attorney of such court in whose name such writ shall be taken out; but in case no attorney shall be employed for that purpose, then with a memorandum expressing that the same has been

⁽¹⁾ The court will not permit process to be served at the house of the agent of a defendant who is out of the jurisdiction, in order to save the statute of limitations; but the plaintiff must proceed according to the above provision; Frith v. Lord Donegal, 2 Dowl. 527. If the first writ be a summons, all the continued writs must, it seems, be also alias or pluries writs of summons, and not writs of capius, and so vice versa. The court it would appear, will allow the continuance to be amended. See Taylor v. Gregory, 2 B. & Ad. 257, and also the writ itself ifonly voidable and not void. See further Chitty's Arch. 4th ed. p. 792-4.

A writ issued to save the statute of limitations may be returned non est inventus, and other write issued upon it though the defendant is to be found and may be served, but the expense of such of the writs as are unnecessarily issued, will not be allowed to the plaintiff; Williams v. Roberts, 3 Dowl. 512; the circumstance that the statute has run since the debt accrued, is no ground for setting aside the plantiff's proceedings; but the matter must be pleaded; Potter v. Mucdonnel, Id. **583.**

⁽²⁾ A defendant arrested within the above interval must put in and justify bail before a judge at chambers in the same way as in any other part in the vacation; Rex v. Sheriff of Middlesex, 4 Tyr. 60; 2 C. & M. 333; 2 Dowl. 286.

⁽³⁾ The exigent in proceedings to outlawry is not a writ within the meaning of this clause; Lewis v. Davison, 1 Cr. M. & R. 655; 3 Dowl. 272.

⁽⁴⁾ It is not enough that a day is indorsed on the writ; Hasker v. Jurmaine, 1 C. & M. 408; 1 Dowl. 654.

⁽⁵⁾ If the attorney be one of a firm, it is best to indorse the name of the firm. A description of the attorney's abode as of "Ely Place;" Englehart v. Edwards, Chitty's Arch. 4th ed. 124; or o "Gray's Inn, London;" Englehart v. Eure, 2 Dowl. 145; or "Gray's Inn Square, London," i sufficient; King v. Monkhouse, 2 Dowl. 221; 2 C. & M. 314.

sued out by the plaintiff in person, mentioning the city, town, or parish, 2 W. 4, c. 39. and also the name of the hamlet, street, and number of the house of such plaintiff's residence, if any such there be.

Service of writs corporations and on inhabitants of hundreds and towns.

XIII. That every such writ of summons issued against a corporation of summons on aggregate may be served on the mayor or other head officer, or on the town clerk, clerk, treasurer, or secretary of such corporation; and every such writ issued against the inhabitants of a hundred or other like district may be served on the high constable thereof, or any one of the high constables thereof; and every such writ issued against the inhabitants of any county of any city or town, or the inhabitants of any franchise, liberty, city, town, or place not being part of a hundred or other like district, on some peace officer thereof.

General rules to be made by the judges.

XIV. That it shall and may be lawful to and for the judges of the said courts, and they are required, from time to time to make all such general rules and orders for the effectual execution of this act, and of the intention and object hereof, and for fixing the costs to be allowed for and in respect of the matters herein contained, and the performance thereof, as in their judgment shall be deemed necessary or proper, and for that purpose to meet as soon as conveniently may be after the passing hereof (1)

Rules and orders may be made for the return of writs

XV. That it shall be lawful, in term time, for the court out of which any writ issued by authority of this act, or any writ of capias ad satisfaciendum, fieri facias, or elegit, shall have issued, to make rules, and also for any judge of either of the said courts, in vacation, to make orders, for the return of any such writ; and every such order shall be of the same force and effect as a rule of court made for the like purpose; provided always, that no attachment shall issue for disobedience thereof until the same shall have been made a rule of court.

Proceedings in default of appearance or special bail.

XVI. That all such proceedings as are mentioned in any writ, notice, or warning issued under this act, shall and may be had and taken in default of a defendant's appearance or putting in special bail, as the case may be.

Attorney to declare whether writ issued by his authority; and to declare client, if ordered.

If writ not issued by authority of the attorney, the be discharged.

Rules to be made by the their ministers and officers.

XVII. That every attorney whose name shall be indorsed on any writ issued by authority of this act shall, on demand in writing made by or on behalf of any defendant, declare forthwith whether such writ has been issued by him, or with his authority or privity; and if he shall answer in the affirmative, then he shall also, in case the court or any of abode of his judge of the same or of any other court shall so order and direct, declare in writing, within a time to be allowed by such court or judge, the profession, occupation, or quality, and place of abode of the plaintiff, on pain of being guilty of a contempt of the court from which such writ shall have appear to have been issued; and if such attorney shall declare that the writ was not issued by him, or with his authority or privity, the said court, or any judge of either of the said courts, shall and defendant may may, if it shall appear reasonable so to do, make an order for the immediate discharge of any defendant or defendants who may have been arrested on any such writ, on entering a common appearance. (2)

XVIII. That it shall and may be lawful to and for the judges of each of the said courts from time to time to make such rules and orders for courts for the the government and conduct of the ministers and officers of their respecgovernment of tive courts, in and relating to the distribution and performance of the duties and business to be done and performed in the execution of this act, as such judges may think fit and reasonable; provided always, that

no additional charge be thereby imposed on the suitors.

XIX. Provided always, That nothing in this act contained shall Proviso for persons privileged from arrest, &c.

⁽¹⁾ A variety of rules of court were made in pursuance of this section in Michaelmas term, 3 W. 4. (2) Where an attorney gives a false residence of his client without using proper means to ascertain whether it is correct or not, he subjects himself to the costs which may be occasioned by moving for an attachment against him, but he is not liable to pay the costs of the action, if he is hone fide "able, after proper enquiry, to give his client's residence; Neal v. Holden, 3 Dowl. 493.

Class III.] Original Writ, Process, Arrest, Imprisonment, &c.

subject any person to arrest, outlawry, or waiver, who, by reason of any No. IV. privilege, usage, or otherwise, may now by law be exempt therefrom, or 2 W. 4, c. 39. shall extend to any cause removed into either of the said courts by writ of pone, certiorari, recordari, facias loquelam, habeas corpus, or

otherwise. (1)

XX. And whereas there are in divers parts of England certain dis- Places, parcel tricts and places, parcel of some one county, but wholly situate within of one county and surrounded by some other county, which is productive of inconve- and situate in nience and delay in the service and execution of the process of the said another, to be courts; for remedy thereof be it enacted, That every such district and deemed part of place shall and may, for the purpose of the service and execution of each. every writ and process, whether mesne or judicial, issued out of either of the said courts, be deemed and taken to be part as well of the county wherein such district or place is so situate as aforesaid as of the county whereof the same is parcel; and every such writ and process may be directed accordingly, and executed in either of such counties.

XXI. That from the time when this act shall commence and take Writs hereineffect, the writs herein-before authorized shall be the only writs for the before authorcommencement of personal actions in any of the courts aforesaid, in the ized to be the cases to which such writs are applicable; and the costs to be allowed only writs for and charged for such writs shall be the same as for writs of latitat: Pro-commencevided always, That nothing in this act contained shall abridge, alter, or ment of peraffect the franchises and jurisdictions of either of the counties palatine sonal actions.

of Lancaster (2) or Durham, or of any officer or minister thereof.

XXII. That this act shall commence and take effect on the first day Commenceof Michaelmas term next after the passing hereof. ment of act.

SCHEDULE to which this Act refers.

No. 1.

Writ of Summons.

WILLIAM the Fourth, &c.

To C. D. of, &c., in the county of We command you, [or as before or often we have commanded you,] that within eight days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for , in an action on promises [or as you in our court of the case may be], at the suit of A.B. And take notice, that, in default of your so doing, the said A. B. may cause an appearance to be entered for you, and proceed therein to judgment and execution.

at Westminster the Witness

Memorandum to be subscribed on the Writ.

N. B. This writ is to be served within four calendar months from the date thereof, including the day of such date, and not afterwards.

Indorsement to be made on the Writ before Service thereof.

This writ was issued by E. F. of

attorney for the said A.B.

This writ was issued in person by A. B. who resides at [mention the city, town, or parish, and also the name of the hamlet, street, and number of the house of the plaintiff's residence, if any such.]

(1) This statute applies only to actions commenced in the superior courts at Westminster.

No. IV. 2 W. 4, c. 39.

Indorsement to be made on the Writ after Service thereof.

This writ was served by me X. Y. on the day of

X. Y.

No. 2.

Forms of entering an Appearance.

A. Plaintiff, against C.D. The defendant C.D. appears in person.

against C.D. and another, J.E.F. attorney for C.D. appears for him.

against C. D. and others. G.H. attorney for the plaintiff, appears for the defendant C. D. according to the statute.

Entered the

day of

18

No. 3.

Writ of Distringus.

WILLIAM the Fourth, etc.

To the sheriff of greeting:

We command you, that you omit not by reason of any liberty in your bailiwick, but that you enter the same, and distrain upon the goods and chattels of C. D. for the sum of forty shillings, in order to compel his to answer A. B. in a plea of trespass appearance in our court of on the case [or debt, or as the case may be]; and how you shall execute this our writ you make known to us in our said court on the now next ensuing. day of

Witness

at Westminster the

day of

in the

year of our reign.

Notice to be subscribed to the foregoing Writ.

In the court of

Between $\begin{cases} A. B. \text{ Plaintiff} \\ \text{and} \\ C. D. \text{ Defendant.} \end{cases}$

Mr. C. D.

Take notice, that I have this day distrained upon your goods and chattels in the sum of forty shillings, in consequence of your not having appeared in the said court to answer to the said A. B., according to the exigency of a writ of summons bearing teste on the ; and that in default of your appearance to the present writ within eight days inclusive after the return hereof, the said A. B. will cause an appearance to be entered for you, and proceed thereon to judgment and execution, or [if the defendant be subject to outlawry] will cause proceedings to be taken to outlaw you.

No. 4.

Writ of Capias.

WILLIAM the Fourth, &c. To the sheriff of

To the constable of Dover Castle,

To the mayor and bailiffs of Berwick upon Tweed,

[as the case may be,]

greeting:

We command you [or as before or often, we have commanded you],

No. IV.

Class III. Original Writ, Process, Arrest, Imprisonment, &c.

that you omit not by reason of any liberty in your bailiwick, but that if he shall 2 W. 4, c. 39. you enter the same, and take C.D. of be found in your bailiwick, and him safely keep until he shall have given you bail or made deposit with you according to law in an action on promises [or of debt, etc.], at the suit of A. B., or until the said C. D. shall by other lawful means be discharged from your custody. And we do further command you, that on execution hereof you do deliver a copy hereof to the said C.D. And we hereby require the said C.D. to take notice, that within eight days after execution hereof on him, inclusive of the day of such execution, he should cause special bail to be put in for him in our court of to the said action, and that in default of his so doing such proceedings may be had and taken as are mentioned in the warning hereunder written or indorsed hereon. And we do further command you the said sheriff, that immediately after the execution hereof you do return this writ to our said court, together with the manner in which you shall have executed the same, and the day of the execution hereof; or that if the same shall remain unexecuted, then that you do so return the same at the expiration of four calendar months from the date hereof, or sooner if you shall be thereto required by order of the said court or by any judge thereof.

Witness

at Westminster the

day of

Memoranda to be subscribed to the Writ.

N. B. This writ is to be executed within four calendar months from the date thereof, including the day of such date, and not afterwards.

A Warning to the Defendant.

1. If a defendant, being in custody, shall be detained on this writ, or if a defendant, being arrested thereon, shall go to prison for want of bail, the plaintiff may declare against any such defendant before the end of the term next after such detainer or arrest, and proceed thereon to judgment and execution.

2. If a defendant, being arrested on this writ, shall have made a deposit of money according to the statute 7 & 8 G. 4, c. 71, and shall omit to enter a common appearance to the action, the plaintiff will be at liberty to enter a common appearance for the defendant, and proceed

thereon to judgment and execution.

3. If a defendant, having given bail on the arrest, shall omit to put in special bail as required, the plaintiff may proceed against the sheriff or

on the bail bond.

4. If a defendant, having been served only with this writ, and not arrested thereon, shall not enter a common appearance within eight days after such service, the plaintiff may enter a common appearance for such defendant, and proceed thereon to judgment and execution.

Indorsements to be made on the Writ of Capias.

Bail for £

by affidavit.

Bail for £ ing the order, dated the Or. by order of [naming the judge makday of

This writ was issued by E. F. of plaintiff [or plaintiffs] within named. attorney for the

Or. This writ was issued in person by the plaintiff within named, who mention the city, town, or parish, and also resides at

436

Original Writ, Process, Arrest, Imprisonment, &c. [Part IV.

No. IV.

2 W. 4, c. 39. the name of the hamlet, street, and number of the house of the plaintiff's residence, if any such there be.]

No. 5.

Writ of Detainer.

WILLIAM the Fourth, etc.

To the Marshal of the Marshalsea of Our Court before Us [or To the

Warden of our Prison of the Fleet.

We command you, that you detain C.D. if he shall be found in your custody at the delivery hereof to you, and him safely keep in an action on promises [or of debt, etc., as the case may be], at the suit of A.B., until he shall be lawfully discharged from your custody. And we do further command you, that on receipt hereof you do warn the said C.D., by serving a copy hereof on him, that within eight days after service of such copy, inclusive of the day of such service, he do cause special to the said action; bail to be put in for him in our court of and that in default of his so doing the said A. B. may declare against him before the end of the term next after his detainer, and proceed thereon to judgment and execution. And we do further command you the said [marshal or warden, as the case may be], that immediately after the service hereof you do return this our writ, or a copy hereof, to our said court, together with the day of the service hereof.

Witness at Westminster the day of

N. B.—This Writ is to be indorsed in the same Manner as the Writ of Capias, but not to contain the Warning on that Writ.

[No. V.] 2 W. 4. c. 43.—An Act to continue until the First day of March 1836, an Act of the Ninth Year of His late Majesty for the Relief of Insolvent Debtors in India.

[No. VI.] 2 W. IV. c. 44.—An Act to continue for Three Years, and to amend the Laws for the Relief of Insolvent [6th June 1832.] Debtors in England.

7 G. 4, c. 57.

1 W. 4, c. 38.

Recited acts continued.

Assignees not required to execute counterpart of conveyances, but provisional assignee to execute them in 'uplicate.

WHEREAS an act was passed in the seventh year of his late Majesty king George the Fourth, intituled An Act to amend and consolidate the Laws for the Relief of Insolvent Debtors in England: And whereas a certain other act was passed in the first year of his present Majesty, intituled An Act to continue and amend the Laws for the Relief of Insolvent Debtors in England, whereby, amongst other things thereby enacted, the said first-mentioned act was continued for a certain time therein mentioned: and whereas it is expedient to continue the said acts; be it therefore enacted by, &c., that the said acts shall be and the same are hereby continued.

II. And whereas it is by the said first-recited act enacted, that a counterpart of every conveyance and assignment by the provisional assignee of the court for relief of insolvent debtors to the other assignees therein mentioned, shall be filed of record in the said court: and whereas the requiring such counterpart has been productive of delay and inconvenience; be it therefore enacted, That from and after the passing of this act the said assignees shall not be required to execute

such counterpart as aforesaid, but that in lieu thereof the said provisional assignee shall execute every such conveyance and assignment as afore- 2 W. 4, c. 44. said in duplicate, and that one part of such conveyance and assignment so executed by such provisional assignee shall be filed of record in the said court; and that a copy of any such record so made and so purporting to be certified and sealed as by the said first-recited act is directed for evidence of the records therein mentioned in that behalf, shall be recognized and received as sufficient evidence of such conveyance and assignment so to be executed as aforesaid, and of title under the same, as fully and effectually in every respect as the said records are required te be recognized and received by the provisions of the said first-recited act, to all intents and purposes.

III. That the said court shall and may, from time to time as occasion Examiners may shall require, appoint examiners for the purposes of the said recited acts be appointed in and of this act within the counties of Middlesex and Surrey, and the London as well city of London and borough of Southwark, as well as within the other as in the parts of England, as directed by the said first-recited act; and that the county. said court may order references in pursuance of the said recited acts to be made to any such examiner, or to an officer of the said court, as shall appear most expedient; and that all things shall and may be done in pursuance of a reference made to such examiner as may be done in pursuance of a reference to an officer of the said court according to the provisions of the said first-recited act.

V. That the said recited acts and this act shall continue in force Duration of until the first day of June one thousand eight hundred and thirty-five, acts. and from thence until the end of the then next session of parliament,

[No. VII.] 3 & 4 W. IV. c. 67.—An Act to amend an Act of the Second Year of His present Majesty, for the Uniformity of Process in Personal Actions in His Majesty's Courts of Law at Westminster. [28th August 1833.]

 \mathbf{W} HEREAS by an act passed in the second year of his Majesty's reign 2 W. 4, c. 39. intituled An Act for Uniformity of Process in Personal Actions in His Majesty's Courts of Law at Westminster, it is enacted, that the process in certain actions therein mentioned shall be according to the form contained in a schedule to the said act annexed, and shall be called a writ of summons, and that such writ shall be issued by the officer of the said courts respectively by whom process serviceable in the county therein mentioned hath been heretofore issued from such court: and whereas since the commencement of the said act the writ of summons, and other writs mentioned therein, issued into the county of Middlesex, have been issued, signed, and sealed by the signer of the bills of Middlesex in the king's bench, whilst such writs into all other counties and cities have been issued and signed by a different officer, and have been sealed by the sealer of the writs, under and by virtue of an order of the judges of the said court: and whereas it is expedient that all writs issued into the county of Middlesex from the court of king's bench should be signed and sealed by the same persons and in like manner as all other writs issued from the said court into other counties and cities: be it therefore enacted, &c., That so much of the said act passed in the second year of Part of recited his Majesty's reign as provides that the writ of summons therein men- act repealed. tioned shall be issued by the officer of the said courts respectively by whom process serviceable in the county therein mentioned hath been heretofore issued from such court, shall be and the same is hereby re- Writs of sumpealed: and that from and after the passing of this act, all write of sum- mons, distrin-

mons, distringus, capias, and detainer, issued into the county of Middle-

No. VII. **c.** 67.

3 & 4 W. 4, sex from the court of king's bench, shall be signed, sealed, and issued, and the fees thereon shall be taken and accounted for, by the same person or persons and in like manner as all other writs of summons, dristringas, capias, or detainer, issued from the said court of king's gas, &c. issued into Middlesex, bench, under and by virtue of the said recited act; any law, custom, or usage to the contrary notwithstanding. to be signed and fees accounted for in like manner as writs under recited act.

Teste and rewrits.

II. And whereas by the existing law, and the practice of the said courts turn of certain of common law, actions may be brought and issues proceed to trial and final judgment, in vacation, notwithstanding the cause of action may have arisen subsequent to the then preceding term, and jury process of writs of execution are now by law tested in term time only; be it therefore enacted, That from and after the passing of this act the writ of venire facias juratores may be tested on the day on which the same shall be issued, and be made returnable forthwith, and that the writ of distringas juratores or habeas corpora juratorum may be tested in term or vacation on a day subsequent to the teste of the writ venire facias juratores, and that all writs of execution may be tested on the day which the same are issued, and be made returnable immediately after execution thereof: provided always, that when any trial is to be had at bar, the writ of venire facias juratores shall be made returnable as heretofore.

> [No. VIII.] 4 & 5 W. IV. c. 56.—An Act to continue for One Year, and from thence to the End of the then next Session of Parliament, the Acts for the Relief of Insolvent Debtors in Ireland. [13th August 1834.]

1 & 2 G. 4. c. **59**.

WHEREAS an act was passed in the session of parliament holden in the first and second years of the reign of his late Majesty king George the fourth, intituled An Act for the Relief of Insolvent Debtors in Ireland, to continue in force for a certain time therein limited; and the said act was amended by another act passed in the third year of the same reign; and both the said acts were continued by another act made in the seventh and eighth years of the same reign: And whereas another act was made in the tenth year of the same reign, whereby the said recited acts of the first and second and third years of the same reign were amended and further continued; and the same, so amended, were by an act made in the first year of his present Majesty's reign further continued; and the same, so amended, were by another act made in the second year of his present Majesty's reign further continued until the end of this present session of parliament: And whereas by an act made in the first and second years of the reign of his present Majesty, intituled An Act to improve the Administration of Justice in Ireland, certain provisions of the said recited act of the first and second years of the reign of his late Majesty were repealed, and certain other provisions were made, and certain persons declared, in certain cases therein specified, to be entitled to the benefit of the acts for the relief of insolvent debtors in Ireland: And whereas it is expedient that the said acts for the relief of insolvent debtors should be further continued: Be it therefore enacted, &c. That the said recited act of the first and second years of the reign of his late Majesty, as the same is amended by the said recited acts of the third and tenth years of the same reign, and save and except as any provisions thereof may be repealed, or other provisions substituted therefore, by the said recited act of the first and second years of his present Majesty's reign, shall be continued; and the said recited acts of the first and second, third, and tenth years of the reign of his late Majesty, and such parts of the said recited act of the first and second year of the reign of

1 & 2 W. 4, c. 31.

Recited acts continued in force for one year.

Class III.] Original Writ, Process, Arrest, Imprisonment, &c.

his present Majesty as relates to the law for the relief of insolvent debtors, shall be and the same are hereby continued accordingly for one 3 & 4 W. 4, year from the passing of this act, and until the end of the then next session of parliament.

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No. VIII. c. 56.

[No. IX.] 4 & 5 W. IV. c. 79.—An Act to amend the Law relating to Insolvent Debtors in India.

[14th August 1834.]

5 & 6 W. IV. c. 70.—An Act for abolishing, in No. X. Scotland, Imprisonment for Civil Debts of small Amount. [9th September 1835.]

WHEREAS his Majesty was pleased, by letters patent bearing date on the sixth day of June one thousand eight hundred and thirtythree, under the great seal appointed by the treaty of union to be kept and made use of in place of the great seal of Scotland, to appoint certain commissioners with instructions to inquire, inter alia, "as to the present form of enforcing judicial decrees by the diligence of horning and caption and imprisonment, and the expediency of any alteration in the law or forms touching such proceedings:" And whereas the said commissioners have made a report, from which it appears that great hardship is frequently suffered by poor persons in consequence of imprisonment for civil debts to a small amount, without producing thereby any adequate benefit to their creditors: And whereas it is expedient that a remedy should be provided: Be it therefore enacted, &c. That from No person to and after the first day of January one thousand eight hundred and be imprisoned thirty-six it shall not be lawful to imprison any person or persons on for a debt not account of any civil debt which shall not exceed the sum of eight pounds six shillings and eight-pence sterling, exclusive of interest and expences thereon: Provided that it shall be lawful to imprison debtors on debts incurred or which may become due under contracts made before the passing of this act in like manner as if this act had not been passed; provided always, that imprisonment for such debts shall commence before the first day of January one thousand eight hundred and forty.

II. That from and after the first day of January one thousand eight After 1st Jan. hundred and thirty-six it shall not be lawful for any magistrate, or 1836 gaolers keeper of a prison, or other officer having the charge of any prison, in not to receive Scotland, to receive into such prison, or for any messenger at arms or into their cus-Scotland, to receive into such prison, or for any messenger at aims of tody any per-other officer of the law to apprehend or detain in custody the person of son for a debt any debtor or alleged debtor for a civil debt of an amount not exceeding not above eight pounds six shillings and eight-pence sterling, exclusive of interest 81.6s. 8d. and expences thereon, in virtue of letters of caption, act of warding, decree of a small debt court, or other warrant, unless in the case of debts contracted before the passing of this act as aforesaid.

III. That on application made to the sheriff of the county in which Sheriff or mathe prison shall be situated, or to the magistrates having charge of any gistrates may prison, by any prisoner incarcerated therein, showing that he is impri-direct the dissoned or detained in gaol for a civil debt or debts contrary to the provi-charge of any sions of this act, such sheriff or magistrates shall cause intimation to person impribe made to the incarcerating creditor or creditors, upon inducize of six soned for a less days after intimation: and on being satisfied that the statement of the days after intimation; and on being satisfied that the statement of the prisoner is consistent with truth, such sheriff or magistrates shall without delay grant warrant for his liberation in so far as regards the debt due to such creditor.

440

Original Writ, Process, Arrest, Imprisonment, &c. [Part IV.

No. X. c. 70.

____ Persons not to acquire debts under sum before specified,

Not to affect recovery of fines or forfeitures.

IV. That it shall not be lawful for any person to acquire from third 5 & 6 W. 4, parties, by assignation or otherwise, except by marriage or inheritance, one or more civil debts of or below the amount of eight pounds six shillings and eight-pence sterling, against any one individual, to the effect of accumulating such debts into one decree or warrant or writ, or of adding the same to debts previously due to him of or below the said amount, for the purpose of defeating this act, by imprisoning the debtor for such accumulated debts. except by marriage or inheritance.

V. That nothing in this act contained shall affect obligations ad facta præstanda, or the right of his Majesty or his officers, or the fiscals of courts of law, or others, to imprison as formerly, or on account of taxes or penalties due to the revenue, or on account of any fines or forfeitures imposed or hereafter to be imposed by law, or apply to imprisonment for poor rates or local taxation, or to imprisonment for sums decerned

for aliment.

CLASS IV.

OUTLAWRY

[No. I.] 2 W. IV. c. 39.—An Act for Uniformity of Process in Personal Actions in His Majesty's Courts of Law at Westminster. [23rd May 1832.]

V. That upon the return of non est inventus (1) as to any defendant Proceedings to against whom such writ of capias shall have been issued, and also upon outlawry. the return of non est inventus and nulla bona as to any defendant against whom such writ of distringus as herein-before mentioned shall have issued whether such writ of capias or distringas shall have issued against such defendant only, or against such defendant and any other person or persons, it shall be lawful, until otherwise provided for, to proceed to outlaw or waive such defendant by writs of exigi facias and proclamation, and otherwise, in such and the same manner as may now be lawfully done upon the return of non est inventus to a pluries writ of capias ad respondendum issued after an original writ: provided always, that every such writ of exigent proclamation, and other writ subsequent to the writ of capies or distringes, shall be made returnable on a day certain in term; and every such first writ of exigent and proclamation shall bear teste on the day of the return of the writ of capias or distringas, whether such writ be returned in term or in vacation; and every subsequent writ of exigent and proclamation shall bear teste on the day of the return of the next preceding writ; and no such writ of capias or distringas shall be sufficient for the purpose of outlawry or waiver if the same be returned within less than fifteen days after the delivery thereof to the sheriff or other officer to whom the same shall be directed.

VI. That after judgment given in any action commenced by writ of Proceedings to summons or capias under the authority of this act, proceedings to out-outlawry may lawry or waiver may be had and taken, and judgment of outlawry or be had after waiver given, in such manner and in such cases as may now be lawfully judgment given done after judgment in an action commenced by original writ: provided under the authority of this act shall and may be vacated or set aside by writ of error or motion, in like manner as outlawry or waiver founded on an original writ may now

be vacated or set aside.

VII. That for the purpose of proceeding to outlawry and waiver upon Filazer to be such writs of capias or distringas returnable in the court of exchequer, appointed in it shall and may be lawful for the lord chief baron of the said court, and the court of he is hereby required to appoint from time to time a fit person, holding exchequer. some other office in the said court, to execute the duties of a Filazer, exigenter, and clerk of the outlawries in the same court.

⁽¹⁾ Where the plaintiff's attorney knew the defendant's attorney, and delivered a capias to the sheriff, with directions to return the same non est inventus, the court thought this proceeding, without making any application to the defendant's attorney, was an abuse of the process of the court, and made a rule absolute for setting aside the outlawry with costs; Pijou v. Drummond, 1 Bing. N. C. 354.

CLASS V.

PROCEEDINGS AGAINST PERSONS HAVING PRIVILEGE OF PARLIAMENT.

[No. I.] 2 W. IV. c. 39.—An Act for Uniformity of Process in Personal Actions in His Majesty's Courts of Law at Westminster.

Mode of proa member of parliament to enforce the statute 6 G. 4, c. 16, s. 10.

IX. That in all such actions wherein it shall be intended to proceed ceeding against against a member of parliament according to the provisions of the said statute made in the sixth (1) year of the reign of his late Majesty king George the Fourth, the process shall be according to the form contained in the said schedule marked No. 6, and which process and a copy thereof shall be in lieu of the summons, or original bill and summons, and copy thereof, mentioned in the said statute (2).

SCHEDULE.

No. 6.

Writ of Summons to be served on a Member of Parliament in order to enforce the Provisions of the Statute 6 G. 4, c. 16, s. 10. WILLIAM the fourth, etc.

To C. D. of, etc.

esquire, having privilege of parliament,

greeting:

We command you, that within one calendar month next after personal service hereof on you, you do cause an appearance to be entered for you in an action [on promises, debt, etc. as the case in our court of may be], at the suit of A. B.; and you are hereby informed, that an affidavit of debt for the sum of hath been filed in the proper office, according to the provisions of a certain act of parliament made and passed in the sixth year of the reign of his late Majesty king George the fourth, intituled An Act to amend the Laws relating to Bankrupts, and that unless you pay, secure, or compound for the debt sought to be recovered in this action, or enter into such bond as by the said act is provided, and cause an appearance to be entered for you, within one calendar month next after such service hereof, you will be deemed to have committed an act of bankruptcy from the time of the service hereof.

Witness

at Westminster the

day of

N. B.—This writ is to be served within four calendar months from the date thereof, including the day of such date, and not afterwards.

Direction.—This Summons is to be indorsed with the Name of the Plaintiff or his Attorney in like Manner as the Writ of Capias.

(1) See this act, Evans's Statutes, Part IV, Class 28, Bankrupts.

⁽²⁾ Where a person having privilege of parliament was sued by bill and summons before this act passed, and after the commencement of the action lost his privilege, it was held the process should be continued by distringus, treating him as an M. P., in order to avoid the statute of limitations; Taylor v. Duncombe, 2 Dowl. P. C. 401.

CLASS VI.

PLEADINGS AND OTHER PROCEEDINGS PREVIOUS TO TRIAL.

[Under the powers given by the 1 W. 4, c. 70, s. 11. (see ante, p. 419), the judges of the courts of common law at Westminster issued a rule of court of Hilary term, 1 W. 4, directing, that if declarations in assumpsit or debt (for which assumpsit would lie) upon bills of exchange, promissory notes, and the counts usually called the money counts, shall exceed in length, such of the forms set forth in the schedule annexed to such rule as may be applicable to the case, no costs of the excess shall be allowed to the plaintiff if he succeeds in the cause; and such costs of the excess as have been incurred by the defendant shall be taken and allowed to the defendant, and be deducted from the costs allowed to the plaintiff.

[No. I.] 3 & 4 W. IV. c. 42.—An Act for the further Amendment of the Law, and the better Advancement of Justice. [14th August 1833.]

WHEREAS it would greatly contribute to the diminishing of expence in suits in the superior courts of common law at Westminster if the pleadings therein were in some respects altered, and the questions to be tried by the jury left less at large than they now are according to the course and practice of pleading in several forms of action; but this cannot be conveniently done otherwise than by rules or orders of the judges of the said courts from time to time to be made, and doubts may arise as to the power of the said judges to make such alterations without the authority of parliament: Be it therefore enacted, &c., That the Judges to have judges of the said superior courts, or any eight or more of them, of power to make whom the chiefs of each of the said courts shall be three, shall and may alterations in by any rule or order to be from time to time by them made, in term or the mode of vacation, at any time within five years from the time when this act shall pleading in the take effect, make such alterations in the mode of pleading in the said superior courts, courts, and in the mode of entering and transcribing pleadings, judg- &c. (1). ments, and other proceedings in actions at law, and such regulations as to the payment of costs, and otherwise for carrying into effect the said alterations, as to them may seem expedient; and all such rules, orders, or regulations shall be laid before both houses of parliament, if parliament be then sitting, immediately upon the making of the same, or if parliament be not sitting, then within five days after the next meeting thereof, and no such rule, order, or regulation shall have effect until six weeks after the same shall have been so laid before both houses of parliament; and any rule or order so made shall, from and after such time aforesaid, be binding and obligatory on the said courts, and all other courts of common law, and on all courts of error into which the judg-

⁽¹⁾ Under the authority of this clause a variety of rules were made by the judges in Hilary term. 4 W. 4, 1834, which came into operation on the first day of the ensuing Easter term, whereby extensive alterations have been introduced into the mode of pleading in the courts of common law at Westminster.

444

No. I. 3 & 4 W. 4, c. 42.

Not to deprive any person of the power of pleading the general issue. Restriction as to plea in abatement for non-joinder of

Reply of plaintiff to plea in abatement of nonjoinder.

Provision in sequent proceedings against the persons named in a plea in abatement.

Pleadings and other Proceedings previous to Trial. [Part IV.

ments of the said courts or any of them shall be carried by any writ of error, and be of the like force and effect as if the provisions contained therein had been expressly enacted by parliament: Provided always, That no such rule or order shall have the effect of depriving any person of the power of pleading the general issue, and giving the special matter in evidence, in any case wherein he is now or hereafter shall be entitled to do so by virtue of any act of parliament now or hereafter to be in force.

VIII. That no plea in abatement for the nonjoinder of any person as a co-defendant shall be allowed in any court of common law unless it shall be stated in such plea that such person is resident within the jurisdiction of the court, and unless the place of residence of such a co-defendant. person shall be stated with convenient certainty in an affidavit verifying such plea. (1)

IX. That to any plea in abatement in any court of law of the nonjoinder of another person, the plaintiff may reply that such person has been discharged by bankruptcy and certificate, or under an act for the

relief of insolvent debtors. (2)

X. That in all cases in which after such plea in abatement the plainthe case of sub- tiff shall, without having proceeded to trial upon an issue thereon, commence another action against the defendant or defendants in the action in which such plea in abatement shall have been pleaded, and the person or persons named in such plea in abatement as joint contractors, if it shall appear by the pleadings in such subsequent action, or on the evidence at the trial thereof, that all the original defendants are liable, but that one or more of the persons named in such plea in abatement or any subsequent plea in abatement are not liable as a contracting party or parties, the plaintiff shall nevertheless be entitled to judgment, or to a verdict and judgment, as the case may be, against the other defendant or defendants who shall appear to be liable; and every defendant who is not so liable shall have judgment, and shall be entitled to his costs as against the plaintiff, who shall be allowed the same as costs in the cause against the defendant or defendants who shall have so pleaded in abatement the nonjoinder of such person; provided that any such defendant who shall have so pleaded in abatement shall be at liberty on the trial to adduce evidence of the liability of the defendants named by him in such plea in abatement.

Misnomer not to be pleaded in abatement.

XI. That no plea in abatement for a misnomer shall be allowed in any personal action, but that in all cases in which a misnomer would but for this act have been by law pleadable in abatement in such actions, the defendant shall be at liberty to cause the declaration to be amended, at the costs of the plaintiff, by inserting the right name, upon a judge's summons founded on an affidavit of the right name; and in case such summons shall be discharged, the costs of such application shall be paid by the party applying, if the judge shall think fit. (3)

Initials of names may be used in some cases.

XII. That in all actions upon bills of exchange or promissory notes, or other written instruments, any of the parties to which are designated by the initial letter or letters or some contraction of the christian or first

(1) See also the Carriers' Act, 11 G. 4. & 1 W. 4. c. 68, s. 5, providing that no action commenced against a proprietor shall abate for not joining any co-partner; post, Part IV., Class 14.

(2) It was formerly held, that joint contractors must all be sued, although one had become bankrupt and obtained his certificate, and, if not sued, that the others might plead in abatement; Bovill v. Wood, 2 Maule & S. 23.

⁽³⁾ The plaintiff declared by the name of William Moody, and the cause proceeded to issue in that name. It was sworn that the party intended as plaintiff was John Moody; but there appeared to be a William Moody, a son of John, who was connected with the transaction in question. The court refused a rule to amend the proceedings, by inserting the name of John, instead of William, observing, that if the former were really the person originally intended as plaintiff, the misnomer could not be taken advantage of at the trial; Moody v. Aslatt, 1 C. M. & R. 771: 3 Dowl. P. C.

Class VI.] Pleadings and other Proceedings previous to Trial.

name or names, it shall be sufficient in every affidavit to hold to bail, and in the process or declaration, to designate such persons by the 2 & 3 W. 4, same initial letter or letters or contraction of the christian or first name or names, instead of stating the christian or first name or names in full.

No. I.

XIII. That no wager of law shall be hereafter allowed. Wager of law to be abolished. XIV. That an action of debt on simple contract shall be maintainable Action of debt on simple in any court of common law against any executor or administrator.

XXI. That it shall be lawful for the defendant in all personal actions, contract. (except actions for assault and battery, false imprisonment, libel, slander, Defendant to malicious arrest or prosecution, criminal conversation or debauching of be allowed to the plaintiff's daughter or servant,) by leave of any of the said superior pay money into courts where such action is pending, or a judge of any of the said supe-court in certain rior courts, to pay into court a sum of money by way of compensation actions by or amends, in such manner and under such regulations as to the pay. judge's order. ment of costs and the form of pleading as the said judges, or such eight or more of them as aforesaid, shall, by any rules or orders by them to be from time to time made, order and direct. (1)

XXII. And whereas unnecessary delay and expence is sometimes Power to direct occasioned by the trial of local actions in the county where the cause of local actions to action has arisen; be it therefore enacted, That in any action depending be tried in any in any of the said superior courts, the venue in which is by law local, county. the court in which such action shall be depending, or any judge of any of the said courts, may, on the application of either party, order the issue to be tried, or writ of inquiry to be executed, in any other county or place than that in which the venue is laid; and for that purpose any such court or judge may order a suggestion to be entered on the record, that the trial may be more conveniently had, or writ of inquiry executed, in the county or place where the same is ordered to take

place. (2)

XXIII. And whereas great expence is often incurred, and delay or Allowing failure of justice takes place, at trials, by reason of vacancies as to some amendments to particular or particulars between the proof and the record or setting be made on the forth, on the record or document on which the trial is had, of contracts, record in cercustoms, prescriptions, names, and other matters or circumstances not tain cases. material to the merits of the case, and by the mis-statement of which the opposite party cannot have been prejudiced, and the same cannot in any case be amended at the trial, except where the variance is between any matter in writing or in print produced in evidence and the record: And whereas it is expedient to allow such amendments as herein-after mentioned to be made on the trial of the cause; be it therefore enacted, That it shall be lawful for any court of record, holding plea in civil actions, and any judge sitting at nisi prius, (3) if such court or judge shall see fit so to do, to cause the record, writ, or document on which any trial may be pending before any such court or judge, in any civil action, or in any information in the nature of a quo warranto, or proceedings on a mandamus, when any variance shall appear between the proof and the recital or setting forth, on the record, writ, or document on which the trial is proceeding, of any contract, custom, prescription, name, or other matter, in any particular or particulars in the judgment of such court or judge not material to the merits of the case, and by

⁽¹⁾ And see 11 G. 4, & 1 W. 4, c. 68, s. 10, as to payment of money into court in actions brought against carriers, &c. post, Part IV., Cluss 14.

⁽²⁾ Notwithstanding this clause, it must be satisfactorily made out that an impartial trial cannot be had, to induce the court to interfere to change the venue in a local action; Briscos v. Roberts, 3 Dowl. 434.

⁽³⁾ This section seems to extend to causes tried before the sheriff; Hill v. Salt, 2 Cr. & M. 421, 4 Tyr. 271, 2 Dowl. 380.

No. I. c. 42.

which the opposite party cannot have been prejudiced in the conduct of 3 & 4 W. 4, his action, prosecution, or defence, (1) to be forthwith amended by some officer of the court or otherwise, both in the part of the pleadings where such variance occurs, and in every other part of the pleadings, which it may become necessary to amend, on such terms as to payment of costs to the other party, or postponing the trial to be had before the same or another jury, or both payment of costs and postponement, as such court or judge shall think reasonable; and in case such variance shall be in some particular or particulars in the judgment of such court or judge not material to the merits of the case, but such as that the opposite party may have been prejudiced thereby in the conduct of his action, prosecution, or defence, then such court or judge shall have power to cause the same to be amended upon payment of costs to the other party, and withdrawing the record or postponing the trial as aforesaid, as such court or judge shall think reasonable; and after any such amendment the trial shall proceed, in case the same shall be proceeded with, in the same manner in all respects, both with respect to the liability of witnesses to be indicted for perjury, and otherwise, as if no such variance had appeared; and in case such trial shall be had at nisi prius or by virtue of such writ as aforesaid, the order for the amendment shall be indorsed on the poster or the writ, as the case may be, and returned together with the record or writ, and thereupon such papers, rolls, and other records of the court from which such record or writ issued, as it may be necessary to amend, shall be amended accordingly; and in case the trial shall be had in any court of record, then the order for amendment shall be entered on the roll or other document upon which the trial shall be had; provided that it shall be lawful for any party who is dissatisfied with the decision of such judge at nisi prius, sheriff, or other officer, respecting his allowance of any such amendment, to apply to the court from which such record or writ issued for a new trial upon that ground, and in case any such court shall think such amendment improper, a new trial shall be granted accordingly, on such terms as the court shall think fit, or the court shall make such other order as to them may seem meet. (2)

Power for the court or judge to direct the facts to be found specially.

XXIV. That the said court or judge shall and may, if they or he think fit, in all such cases of variance, instead of causing the record or document to be amended as aforesaid, direct the jury to find the fact or facts according to the evidence, and thereupon such finding shall be stated on such record or document, and, notwithstanding the finding on the issue joined, the said court or the court from which the record has issued shall, if they shall think the said variance immaterial to the merits of the case, and the mis-statement such as could not have prejudiced the opposite party in the conduct of the action or defence, give judgment according

to the very right and justice of the case (3).

In ejectment for a forfeiture, Parke J. allowed a mis-statement of the parish in the declaration to be amended, it not appearing that the defendant was misled; Doe d. Marriott v. Edwards, 6 Carr. & P. 208.

(3) Where in a declaration in case for diverting water, the plaintiff entitled himself the owner of a mill, and it appeared in evidence he was entitled only as owner of lands, the judge at the trial refused to amend under the above section, but indorsed the facts upon the postea under this clause. The court refused to give judgment for the plaintiff upon such indorsement; Parkinson v. Earl of Falmouth, 4 N.& M. 330.

⁽¹⁾ Where a general warranty of the soundness of a horse, was declared on, and it was a warranty, "except in one foot," the judge amended the declaration accordingly, the real dispute between the parties being whether the horse was a roarer; Hemming v. Parry, 6 Car. & P. 580.

⁽²⁾ Where a judge at his prius refused to amend a declaration in ejectment by altering a joint demise by parties who turned out to be tenants in common into several demises, and nonsuited the plaintiff, a rule obtained for setting aside the nonsuit was discharged by the court, which appears to have intimated that the discretion of a judge at nisi prius with respect to amendments was not to be questioned in bank; Doe d. Poole v. Errington, 1 Ad. & El. 750; 3 Nev. & M. 446.

Class VI.] Pleadings and other Proceedings previous to Trial.

XXV. That it shall be lawful for the parties in any action or information, after issue joined, by consent and by order of any of the judges 3 & 4 W. 4, of the said superior courts, to state the facts of the case, in the form of a special case, for the opinion of the court, and to agree that a judgment shall be entered for the plaintiff or defendant, by confession or of nolle Power to state prosequi, immediately after the decision of the case, or otherwise as the a special case court may think fit; and judgment shall be entered accordingly.

No. I. c. 42. without proceeding to trial.

PART IV.

CLASS VII.

SET-OFF.

[There has been no recent statute on this subject.]

CLASS VIII.

LIMITATION OF ACTIONS.

Although previous to this statute to constitute a prescription the enjoyment must have existed from the reign of Richard the first. Bract. C. 2, c. 22; 1 Comm. 75; 2 Id. 263; yet in order to support rights which had been long and peaceably enjoyed, the courts interpreted an enjoyment of even twenty years as presumptive evidence that the right had existed time out of mind, and consequently that period was held a sufficient foundation for establishing a prescriptive right, unless its origin could be proved. 2 Wils. 23; Cowp. 215; 10 East, 476; 2 Brod. & Bing. 403. The following act is intended to make that possession a bar or title of itself, which was so before only by the intervention of a jury. Bright v. Walker, 4 Tyr. 507; 1 Cr. M. & R. 217, S. C. J

[No. I.] 2 & 3 W. IV. c. 71.—An Act for shortening the Time of Prescription in certain Cases (1). [1st August 1832.]

WHEREAS the expression 'Time immemorial, or Time whereof the memory of man runneth not to the contrary,' is now by the law of England in many cases considered to include and denote the whole period of time from the reign of king Richard the first, whereby the title to matters that have been long enjoyed is sometimes defeated by showing the commencement of such enjoyment, which is in many cases productive of inconvenience and injustice; for remedy thereof be it enacted, Claims to right &c., That no claim which may be lawfully made at the common law, by of common and custom, prescription, or grant, to any right of common or other profit or benefit to be taken and enjoyed from or upon any land of our sovereign lord the king, his heirs or successors, or any land being parcel of the duchy of Lancaster or of the duchy of Cornwall, or of any ecclesiastical or lay person, or body corporate, except such matters and things as are herein specially provided for, and except tithes, rent, and services, shall, where such right, profit, or benefit shall have been actually taken and enjoyed by any person claiming right thereto without interruption for the full period of thirty years, be defeated or destroyed by shewing only that such right, profit, or benefit was first taken or enjoyed at any time prior to such period of thirty years, but nevertheless such claim may be defeated in any other way by which the same is now liable to be defeated; and when such right, profit, or benefit shall have been so taken and enjoyed as aforesaid for the full period of sixty years, the right thereto shall be deemed absolute and indefeasible, unless it shall appear that the same was taken and enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing.

II. That no claim which may be lawfully made at the common law, by custom, prescription, or grant, to any way or other easement, or to

other profits à prendre not to be defeated after thirty years' enjoyment by showing the commencement.

After sixty years' enjoyment the right to be absolute, unless had by consent or agreement. In claims of

right of way

⁽¹⁾ For the act shortening the time of prescription in cases of modus decimandi; see ante, Part II. Class II. Tithes.

any watercourse, or the use of any water, to be enjoyed or derived upon, over, or from any land or water of our said lord the king, his heirs or 2 & 3 W. 4, successors, or being parcel of the duchy of Lancaster or of the duchy of Cornwall, or being the property of any ecclesiastical or lay person, or body corporate, when such way or other matter as herein last before or other easementioned shall have been actually enjoyed by any person claiming right ment the pethereto without interruption for the full period of twenty years, (1) riods to be shall be defeated or destroyed by shewing only that such way or other twenty years matter was first enjoyed at any time prior to such period of twenty and forty years. years, but nevertheless such claim may be defeated in any other way by which the same is now liable to be defeated; (3) and where such way or other matter as herein last before mentioned shall have been so enjoyed as aforesaid for the full period of forty years, the right thereto shall be deemed absolute and indefeasible, unless it shall appear that the same was enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing.

III. That when the access and use of light to and for any dwelling. Claim to the house, workshop, or other building shall have been actually enjoyed use of light entherewith for the full period of twenty years without interruption, the Joyed for 20 right thereto shall be deemed absolute and indefeasible, any local usage years indefeasior custom to the contrary notwithstanding, unless it shall appear that shewn to have the same was enjoyed by some consent or agreement expressly made or been by con-

given for that purpose by deed or writing. (4)

IV. That each of the respective periods of years herein-before men-Before-mentioned shall be deemed and taken to be the period next before some suit tioned periods or action wherein the claim or matter to which such period may relate to be deemed those next before suits for claims to which such periods relate.

No. I.

A plea, if under this statute, of twenty years' use is not defeated by proof of an agreed alteration of the line of the way, or by a temporary non-use under an agreement of the parties; Payne v. Shed-

den, 1 Moo. & Rob. 328.

(3) The assignee of a lease granted for three lives by a bishop in right of his see, used for more than twenty years, without interruption, a way to and from his premises, over a close called "The Acre." The defendant, who was in possession of the Acre, under a similar lease, obstructed the way. In an action in the case for this obstruction it was held that the plaintiff's use conferred no title under the above act as against the reversioner the bishop, or his lessee, or persons claiming under such

lessee during the term. Bright v. Walker, 4 Tyr. 502, and see 1 C. M. & R. 614.

(4) Previous to the above clause, the acquiescence of lessees or tenants for life in the enjoyment of lights did not bind the landlord or reversioner, unless he knew of such enjoyment and acquiesced for twenty years; and a presumption against the owner of lands was not so easily inferred in the case of lights as in cases of rights of way or common, where the tenant suffered an immediate injury. Thus it was held, that an enjoyment of lights for more than twenty years during the occupation of the opposite premises by a tenant, did not preclude his landlord, who was ignorant of the fact, from disputing the right to such enjoyment, although he would have been bound by twenty years' acquiescence, after having known that the windows were opened; 11 East, 370. So, where light had been enjoyed for more than twenty years contiguous to land, which within that period had been glebe land, but was conveyed to a purchaser under the 55 G. 3. c. 147, it was decided that no action would lie against such purchaser for building, so as to obstruct the lights, inasmuch as the rector, who was tenant for life, could not grant the easement, and therefore no valid grant could be presumed; 4 B. & Ald. 579. See also 2 B. & Cr. 686.

Under the above clause an absolute right to light may be acquired by an enjoyment without interruption for twenty years, as the eighth section of the act (see post,) providing for possession

during particular estates, does not extend to lights.

⁽¹⁾ Where in trespass quare clausum fregit it was pleaded that the occupiers of the adjoining closes had for twenty years, as of right and without interruption, used and been accustomed to use the privilege and easement of passing and repassing, &c. and laying down rail-roads across the plaintiff's rail-road, which right was traversed by the replication; it was held, that on this issue the defendants were bound to show an uninterrupted enjoyment, as of right, during the twenty years, and that the plaintiff might prove, under such issue, applications by the defendants during that period for leave to cross their rail-road, and that it was not necessary to reply such license specially under the eighth section of this act; Monmouth Canal Company v. Harford, 1 C. M. & R. 614.

No. I. 2 & 3 W. 4, c. 71.

In actions on the case the claimant may allege his right generally, as at present.

pass and other pleadings, where party used to allege his claim from time immemorial, the period mentioned in this act may be alceptions or be replied specially.

Restricting the be allowed in support of claims herein provided for.

Proviso for iniants, &c.

What time to be excluded in computing the term of forty years appointed by this act.

shall have been or shall be brought into question, and that no act or other matter shall be deemed to be an interruption, within the meaning of this statute, unless the same shall have been or shall be submitted to or acquiesced in for one year after the party interrupted shall have had or shall have notice thereof, and of the person making or authorizing the same to be made.

V. That in all actions upon the case and other pleadings, wherein the party claiming may now by law allege his right generally, without averring the existence of such right from time immemorial, such general allegation shall still be deemed sufficient, and if the same shall be denied, all and every the matters in this act mentioned and provided, which shall be applicable to the case, shall be admissible in evidence to sustain In pleas to tres- or rebut such allegation; and that in all pleadings to actions of trespass. and in all other pleadings wherein before the passing of this act it would have been necessary to allege the right to have existed from time immemorial, it shall be sufficient to allege the enjoyment thereof as of right by the occupiers of the tenement in respect whereof the same is claimed for and during such of the periods mentioned in this act as may be applicable to the case, and without claiming in the name or right of the owner of the fee, as is now usually done; (1) and if the other party shall intend to rely on any proviso, exception, incapacity, disability, contract, agreement, or other matter herein-before menleged; and ex- tioned, or on any cause or matter of fact or of law not inconsistent with the simple fact of enjoyment, the same shall be specially alleged and other matters to set forth in answer to the allegation of the party claiming, and shall not be received in evidence on any general traverse or denial of such allegation.

VI. That in the several cases mentioned in and provided for by this presumption to act, no presesumption shall be allowed or made in favour or support of any claim, upon proof of the exercise or enjoyment of the right or matter claimed for any less period of time or number of years than for such period or number mentioned in this act as may be applicable to the case and to the nature of the claim.

VII. Provided also, That the time during which any person otherwise capable of resisting any claim to any of the matters before mentioned shall have been or shall be an infant, idiot, non compos mentis, feme covert, or tenant for life, or during which any action or suit shall have been pending, and which shall have been diligently prosecuted, until abated by the death of any party or parties thereto, shall be excluded in the computation of the periods herein-before mentioned, except only in cases where the right or claim is hereby declared to be absolute and indefeasible.

VIII. Provided always, That when any land or water upon, over, or from which any such way or other convenient watercourse or use of water shall have been or shall be enjoyed or derived hath been or shall be held under or by virtue of any term of life, or any term of years exceeding three years from the granting thereof, the time of the enjoyment of any such way or other matter as herein last before mentioned, during the continuance of such term, shall be excluded in the computation of the said period of forty years, in case the claim shall within three years next after the end or sooner determination of such term be resisted by

⁽¹⁾ Previous to this act a prescription must, in a que estate, always have been raised in the owner of the fee. A tenant for life, for years at will, or a copyholder, could not prescribe by reason of the imbecility of their estates; 4 Rep. 31, 32. For as prescription was deemed usage beyond the time of memory, it was absurd that they should pretend to prescribe for any thing whose estates commenced within the memory of man; and therefore the copyholder must have prescribed under cover of his lord's estate, and the tenant for life under cover of the tenant in fee simple; 2 Comm. c. 17.

any person entitled to any reversion expectant on the determination thereof.

No. I. 3 & 4 W. 4.

IX. That this act shall not extend to Scotland or Ireland.

c. 71.

Not to extend to Scotland or Ireland. X. That this act shall commence and take effect on the first day of Commence-Michaelmas term now next ensuing.

ment of act.

[No. 11.] 3 & 4 W. IV. c. 27.—An Act for the Limitation of Actions and Suits relating to Real Property, and for simplifying the Remedies for trying the Rights thereto. [24th July 1833.]

RE it enacted, &c., That the words and expressions herein-after men- Meaning of the tioned, which in their ordinary signification have a more confined or words in the a different meaning, shall in this act, except where the nature of the pro- act. vision or the context of the act shall exclude such construction, be interpreted as follows; (that is to say,) the word "Land" shall extend to manors, messuages, and all other corporeal hereditaments whatsoever, and also to tithes (other than tithes belonging to a spiritual or eleemosynary coporation sole), and also to any share, estate, or interest in them or any of them, whether the same shall be a freehold or chattel interest, and whether freehold or copyhold, or held according to any other tenure; and the word "Rent" shall extend to all heriots, and to all services "Rent." and suits for which a distress may be made, and to all annuities and periodical sums of money charged upon or payable out of any land (except moduses or compositions belonging to a spiritual or eleemosynary corporation sole); and the person through whom another person is said Person to claim shall mean any person by, through, or under, or by the act of through whom whom, the person so claiming became entitled to the estate or interest another claims. claimed, as heir, issue in tail, tenant by the curtesy of England, tenant in dower, successor, special or general occupant, executor, administrator, legatee, husband, assignee, appointee, devisee, or otherwise, and also any person who was entitled to an estate or interest to which the person so claiming, or some person through whom he claims, became entitled as lord by escheat; and the word "person" shall extend to a body politic, "Person." corporate, or collegiate, and to a class of creditors or other persons, as well as an individual; and every word importing the singular number Number and only shall extend and be applied to several persons or things as well as gender. one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

II. That after the thirty-first day of December one thousand eight No land or rent hundred and thirty-three no person shall make an entry or distress or to be recovered bring an action to recover any land or rent but within twenty years next but within 20 after the time at which the right to make such entry or distress or to years after the bring such action shall have first accrued to some person through whom right of action he claims; or if such right shall not have accrued to any person through claimant or whom he claims, then within twenty years next after the time at which some person the right to make such entry or distress or to bring such action shall whose estate he have first accrued to the person making or bringing the same.

III. That in the construction of this act the right to make an entry or When the right distress or bring an action to recover any land or rent shall be deemed shall be deemed to have first accrued at such time as herein-after is mentioned; (that is to have acto say,) when the person claiming such land or rent, or some person crued in the through whom he claims, shall, in respect of the estate or interest claimed case of an estate have been in possession or in receipt of the profits of such land, or in in possession; receipt of such rent, and shall while entitled thereto have been dispos-

accrued to the

No. II. 3 & 4 W. 4, c. 27. on dispossession;

on abatement or death; on alienation;

estates;

in case of forfeiture or breach of condition.

Where advantage of forfeiture is not taken by remainderman. he shall have a new right when his estate comes

Reversioner to have a new right.

sessed, or have discontinued such possession or receipt (1), then such right shall be deemed to have first accrued at the time of such disposition or discontinuance of possession, or at the last time at which any such profits or rent were or was so received; and when the person claiming such land or rent shall claim the estate or interest of some deceased person who shall have continued in such possession or receipt in respect of the same estate or interest until the time of his death, and shall have been the last person entitled to such estate or interest who shall have been in such possession or receipt, then such right shall be deemed to have first accrued at the time of such death; and when the person claiming such land or rent shall claim in respect of an estate or interest in possession granted, appointed, or otherwise assured by any instrument (other than a will) to him, or some person through whom he claims, by a person being in respect of the same estate or interest in the possession or receipt of the profits of the land, or in the receipt of the rent, and no person entitled under such instrument shall have been in such possession or receipt, then such right shall be deemed to have first acin case of future crued at the time at which the person claiming as aforesaid, or the person through whom he claims, became entitled to such possession or receipt by virrue of such instrument; and when the estate or interest claimed shall have been an estate or interest in reversion or remainder, or other future estate or interest, and no person shall have obtained the possession or receipt of the profits of such land or the receipt of such rent in respect of such estate or interest, then such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession; and when the person claiming such land or rent, or the person through whom he claims, shall have become entitled by reason of any forfeiture or breach of condition, then such right shall be deemed to have first accrued when such forfeiture was incurred or such condition was broken.

IV. Provided always, that when any right to make an entry or distress or to bring an action to recover any land or rent by reason of any forfeiture or breach of condition shall have first accrued in respect of any estate or interest in reversion or remainder, and the land or rent shall not have been recovered by virtue of such right, the right to make an entry or distress or bring an action to recover such land or rent shall be deemed to have first accrued in respect of such estate or interest at the into possession time when the same shall have become an estate or interest in possession, as if no such forfeiture or breach of condition had happened (2).

V. Provided also, That a right to make an entry or distress or bring an action to recover any land or rent shall be deemed to have first accrued, in respect of an estate or interest in reversion, at the time at which the same shall have become an estate or interest in possession by the determination of any estate or estates in respect of which such land shall have been held, or the profits thereof or such rent shall have been received, notwithstanding the person claiming such land, or some per-

(2) A remainder man or reversioner is not bound to take advantage of a forfeiture, but may waive it, and wait until the determination of the particular estate, before he proceeds to make an entry, bring his action; 1 Ves. sen. 278. The object of the section, therefore, is to prevent him being idiced by such waiver.

⁽¹⁾ An important alteration is introduced into the law relating to landlords and tenants by this clause. Under the 21st Jac. c. 16, the mere nonpayment of rent by a lessee was not considered as raising an adverse possession in him, which would cause that statute to operate, although the nonpayment had extended over a period of upwards of twenty years; 2 Bos. & P. 542. Now, however, in consequence of the above section, declaring that a party's right of entry shall be deemed to have accrued at the last time at which rent was received, it follows that twenty years' possession by a tenant without payment of rent, or any acknowledgment in writing of the landlord's title (see post, s. 16), will be a complete bar to the latter.

son through whom he claims, shall, at any time previously to the creation of the estate or estates which shall have determined, have been in 3 & 4 W. 4, possession or receipt of the profits of such land, or in receipt of such rent.

No. II. c. 27.

VI. That for the purposes of this act an administrator claiming the An administraestate or interest of the deceased person of whose chattels he shall be tor to claim as appointed administrator shall be deemed to claim as if there had been if he obtained no interval of time between the death of such deceased person and the the estate without interval after death of deceased. grant of the letters of administration (1).

VII. That when any person shall be in possession or in receipt of the In the case of profits of any land, or in receipt of any rent, as tenant at will, the right atenant at will, of the person entitled subject thereto, or of the person through whom the right shall he claims, to make an entry or distress or bring an action to recover be deemed to such land or rent shall be deemed to have first accrued either at the de have accrued at termination of such tenancy, or at the expiration of one year next after the end of one the commencement of such tenancy, at which time such tenancy shall year. be deemed to have determined: Provided always, that no mortgagor or cestui que trust shall be deemed to be a tenant at will, within the mean-

ing of this clause, to his mortgagee or trustee.

VIII. That when any person shall be in possession or in receipt of the No person after profits of any land, or in receipt of any rent, as tenant from year to year a tenancy from or other period, without any lease in writing, the right of the person en- year to year, to titled subject thereto, or of the person through whom he claims, to make have any right an entry or distress or to bring an action to recover such land or rent but from the shall be deemed to have first accrued at the determination of the first of end of the first such years or other periods, or at the last time when any rent payable year or last in respect of such tenancy shall have been received (which shall last payment of happen.) happen.)

IX. That when any person shall be in possession or in receipt of the Where rent profits of any land, or in receipt of any rent, by virtue of a lease in writ- amounting to ing, by which a rent amounting to the yearly sum of twenty-shillings or 20s. reserved upwards shall be reserved, and the rent reserved by such lease shall by a lease in have been received by some person wrongfully claiming to be entitled to writing, shall such land or rent in reversion immediately expectant on the determinahave been tion of such lease, and no payment in respect of the rent reserved by ceived, no right such lease shall afterwards have been made to the person rightfully en- to accrue on titled thereto, the right of the person entitled to such land or rent, sub- the determinaject to such lease, or of the person through whom he claims, to make an tion of the entry or distress or to bring an action after the determination of such lease. lease shall be deemed to have first accrued at the time at which the rent reserved by such lease was first so received by the person wrongfully claiming as aforesaid; and no such right shall be deemed to have first accrued upon the determination of such lease to the person rightfully entitled (2).

X. That no person shall be deemed to have been in possession of any A mere entry land within the meaning of this act merely by reason of having made an entry thereon (3).

deemed posses-SIOD.

(2) Previous to this act, a right of entry was preserved to the owner of a subsisting lease, although no rent had been received by him; Orwell v. Maddox, Runn. Ejectm. No. 1; neither did the adverse receipt of rent by another person for upwards of twenty years deprive the party of his right of entry at the expiration of the lease; Doe v. Dunvers, 7 East, 299, and see 2 Sch. & Lef. 625; 3 B. & C. 298.

(3) By the 4th & 5th Anne, c. 16, s. 14, no entry upon lands should be of force to satisfy the 21st Jac. 1, c. 16, unless an action was thereupon commenced within one year after, and prosecutive

⁽¹⁾ The intention of this section is, to get rid of a practical inconvenience which resulted from the former state of the land under which it was decided that as the property of the intestate only vested in his administrator from the grant of administration, (See Woolley v. Clark, 5 B. & A. 744,) the 21 Jac. c. 16, as to rights accruing after the death of the deceased only began to run from the time of obtaining such grant. Consequently a right to a term of years might have been kept alive for an indefinite period, notwithstanding adverse possession by delay or neglect to administer on the part of the next of kin.

No. II. c. 27.

No right to be preserved by continual claim.

Possession of &c. not to be the possession of the others.

Possession of a younger brother not to be the possession of the heir.

Acknowledggiven to the be equivalent to possession or receipt of rent.

XI. That no continual or other claim upon or near any land shall pre-3 & 4 W. 4, serve any right of making an entry or distress or of bringing an action (1).

XII. That when any one or more of several persons entitled to any land or rent as coparceners, joint tenants, or tenants in common, shall have been in possession or receipt of the entirety, or more than his or their undivided share or shares of such land or of the profits thereof, or of such rent, for his or their own benefit, or for the benefit of any person or persons other than the person or persons entitled to the other share or shares of the same land or rent, such possession or receipt one coparcener, shall not be deemed to have been the possession or receipt of or by such last-mentioned person or persons or any of them (2).

> XIII. That when a younger brother or other relation of the person entitled as heir to the possession or receipt of the profits of any land, or to the receipt of any rent, shall enter into the possession or receipt thereof, such possession or receipt shall not be deemed to be the possession or

receipt of or by the person entitled as heir (3).

XIV. Provided always, That when any acknowledgment of the title ment in writing of the person entitled to any land or rent shall have been given to him or his agent in writing signed by the person in possession or in receipt person entitled, of the profits of such land, or in receipt of such rent, then such possesor his agent, to sion or receipt of or by the person by whom such acknowledgment shall have been given shall be deemed, according to the meaning of this act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment shall have been given at the time of giving the same, and the right of such last-mentioned person, or any person claiming through him, to make an entry or distress or bring an action to recover such land or rent shall be deemed to have first accrued at and not before the time at which such acknowledgment, or the last of such acknowledgments if more than one, was given (4).

cuted with effect; 1 Wms. Saund. 319 n.; 10 B. & C. 848. The above clause will therefore have the effect of shortening the time within which an ejectment may be brought, for under the act of Anne, a party might enter just before the expiration of the twenty years, and prosecute his action within a year afterwards.

(1) Before this statute an entry, whether actual or in law, made by one having a legal right to enter lands, or by his agent duly authorised, if made peaceably, and repeated once in the space of every year and a day (which was called continual claim) was sufficient to prevent the right of entry from being tolled (that is taken away) by a descent cast, or by a discontinuance, or from being barred by the 21 Jac. 1, c. 16. See Litt. ss. 414, 415; Runn. Ejectm. 51, 52; Adam's Ejectm. 101,

3rd ed.; Ford v. Gruy, 1 Salk 285. (2) This section alters the rule of law that the possession of any one coparcener, joint tenant, or tenant in common, was the possession of the others of them, so as to prevent their being barred by the former statutes of limitation. Possession by one coparcener created a seisin in another, which carried her share by descent to her heirs, although she never actually entered; 7 T. R. 386; and the entry of one coparcener, when not adverse to the rest, enured to the benefit of all; Co. Lit. 243 b.; 6 East, 173. Neither was the receipt of the rents and profits by one held to be as an ouster of the others; Co. Lit. 243 c. n. (1) 373 b.; 1 Salk, 285. Thus the bare receipt of rent for twenty-six years by a tenant in common, without accounting to the other, was considered to be no evidence of ouster; 5 Burr. 2604; and see 3 B. & Ad. 763. But possession for forty years by one tenant in common, where there was no evidence of any account having been demanded, or any rent paid, or of any claim on the part of the lessors of the plaintiff, or of any acknowledgment of title in them, or on those under whom they claimed, was held sufficient ground for the jury to presume an actual ouster; Cowp. 207. And a claim of the whole by one tenant in common in possession, who denied possession to the other, was decided to be evidence of an ouster of the latter; 11 East, 49. A feoffment by one parcener, who occupies alone, under a general entry, operates as a conveyance of her own property, and as a deforcement of her coparceners; Doe d. Rend v. Taylor, 2 N. K M. 508.

(3) This clause is also an alteration of the law. Where a younger son, on the death of his father, entered by abatement into his lands, and had issue, and died seised thereof, the elder son, or his issue, might enter, notwithstanding the descents nor did the statute of limitations operate; as the law intended, that, when the younger son abated into the land, he entered, claiming as heir to his father, and the elder son, or his issue claimed by the same title. See Lit. 396.

(4) The parol declarations of a widow who had continued upwards of twenty years in possession

XV. Provided also, That when no such acknowledgment as aforesaid shall have been given before the passing of this act, and the possession 3 & 4 W. 4. or receipt of the profits of the land, or the receipt of the rent, shall not at the time of the passing of this act have been adverse to the right or title of the person claiming to be entitled thereto, then such person or the Where possesperson claiming through him, may, notwithstanding the period of twenty sion is not adyears herein-before limited shall have expired, make an entry or distress verse at the or bring an action to recover such land or interest at any time within time of passing five years next after the passing of this act.

right shall not be barred until the end of five years afterwards. XVI. Provided always, That if at the time at which the right of any Persons under person to make an entry or distress or bring an action to recover any disability of land or rent shall have first accrued as aforesaid such person shall have infancy, lubeen under any of the disabilities herein-after mentioned, (that is to say) nacy, coverinfancy, coverture, idiotcy, lunacy, unsoundness of mind, or absence ture, or beyond beyond seas, then such person, or the person claiming through him, seas, and their may, notwithstanding the period of twenty-years herein-before limited representatives, shall have expired, make an entry or distress or bring an action to reten years from cover such land or rent at any time within ten years next after the time the termination at which the person to whom such right shall first have accrued as afore- of their disabisaid shall have ceased to be under any such disability, or shall have died lity or death. (which shall have first happened) (1).

XVII. Provided nevertheless, That no entry, distress or action shall be But no action, made or brought by any person who, at the time at which his right to &c. shall be make an entry or distress or to bring an action to recover any land or rent brought beyond shall have first accrued, shall be under any of the disabilities herein-be- forty years after fore mentioned, or by any person claiming through him, but within forty the right of years next after the time at which such right shall have first accrued, action accrued. although the person under disability at such time may have remained under one or more of such disabilities during the whole of such forty years, or although the term of ten years from the time at which he shall have ceased to be under any such disability, or have died, shall not have

expired.

(3) See the 3 & 4 W. c. 42, post.

XVIII. Provided always, That when any person shall be under any No further of the disabilities herein-before mentioned at the time at which his right time to be to make an entry or distress or to bring an action to recover any land or allowed for a rent shall have first accrued, and shall depart this life without having succession of ceased to be under any such disability, no time to make an entry or dis-disabilities. tress or to bring an action to recover such land or rent beyond the said period of twenty years next after the right of such person to make an entry or distress or to bring an action to recover such land or rent shall have first accrued, or the said period of ten years next after the time at which such person shall have died, shall be allowed by reason of any disability of any other person. (2)

XIX. That no part of the united kingdom of Great Britain and Ire-Scotland, Ireland, nor the islands of Man, Guernsey, Jersey, Alderney, or Sark, nor land, and the any island adjacent to any of them (being part of the dominions of his adjacent Majesty), shall be deemed to be beyond seas within the meaning of this islands, not to **act.** (3)

No. II. c. 27.

the act, the

be deemed beyond seas.

of an estate, that she held it for life, and on her death it would go to her husband's heirs, were admitted in evidence to negative the fact of her having had twenty years' adverse possession; Doe d. Haman v Pettet, 5 B. & A. 223. And see Doe dem. Roffey v. Harborough, 1 Nev. & M. 422.

⁽¹⁾ Imprisonment, it will be seen, is not a disability within this sct, as it is within the 21 Jac. l, c. 16.

⁽²⁾ Under the 21 Jac. 1, c. 16, the time when that statute begun to run might be protracted for an indefinite period by a succession of disabilities in the person having the right of entry, or his heir, (See Lessee of Supple v. Raymond, 1 Hayes Ir. Rep. 6,) provided that no interval occurred between such disabilities to which the statute could attach; for when once the act began to run no subsequent disability, whether voluntary or involuntary, prevented its operation; $Doe\ d.\ Durome\ v.\ Jones$, 4 Term Reports, 310; Cotterel v. Dutton, 4 Taunt. 826; Doe d. George v. Jesson, 6 East 80.

No. II. c. 27.

to an estate in possession is barred, the right of the same person to future estates shall also be barred.

Where tenant remaindermen, whom he might have baired, shall not recover.

Possession adverse to a tenant in tail shall run on against the remainder-men whom he might have barred.

Where there possession under an assurance, by a tenant in tail, which shall not bar the remainders, they shall be barred at the

XX. That when the right of any person to make an entry or distress 3 & 4 W. 4, or bring an action to recover any land or rent to which he may have been entitled for an estate or interest in possession shall have been barred by the determination of the period herein-before limited, which When the right shall be applicable in such case, and such person shall at any time during the said period have been entitled to any other estate, interest, right, or possibility, in reversion, remainder, or otherwise, in or to the same land or rent, no entry, distress, or action shall be made or brought by such person, or any person claiming through him, to recover such land or rent, in respect of such other estate, interest, right, or possibility, unless in the meantime such land or rent shall have been recovered by some person entitled to an estate, interest, or right which shall have been limited or taken effect after or in defeasance of such estate or interest in possession. (1)

XXI. That when the right of a tenant in tail of any land or rent to in tail is barred, make an entry or distress or to bring an action to recover the same shall have been barred by reason of the same not having been made or brought within the period herein-before limited, which shall be applicable in such case, no such entry, distress, or action shall be made or brought by any person claiming any estate, interest, or right which such

tenant in tail might lawfully have barred.

XXII. That when a tenant in tail of any land or rent, entitled to recover the same, shall have died before the expiration of the period herein-before limited, which shall be applicable in such case, for making an entry or distress or bringing an action to recover such land or rent, no person claiming any estate, interest, or right which such tenant in tail might lawfully have barred shall make an entry or distress or bring an action to recover such land or rent but within the period during which, if such tenant in tail had so long continued to live, he might have made such entry or distress or brought such action. (2)

XXIII. That when a tenant in tail of any land or rent shall have shall have been made an assurance thereof, which shall not operate to bar an estate or estates to take effect after or in defeasance of his estate tail, and any person shall by virtue of such assurance, at the time of the execution thereof, or at any time afterwards, be in possession or receipt of the profits of such land, or in the receipt of such rent, and the same person, or any other person whatsoever (other than some person entitled to such possession or receipt in respect of an estate which shall have taken effect after or in defeasance of the estate tail), shall continue or be in such

⁽¹⁾ Under the 21 Jac. 1, c. 16 s. 1. a party might pursue his right of entry within twenty years after it accrued, although in the meantime he had a different right of which he was barred by more than twenty years' adverse enjoyment. For instance, where a tenant in tail of lands in ancient demesne demised them by fine in the court of ancient demesne for three lives, and afterwards levied, a fine of the reversion in the same court to the use of himself and his heirs (it being agreed that fines in that court did not bar estates tail) it was held that the first fine enacted a discontinuance, and the second did not, and that although the issue in tail did not bring their formedon within twenty years after the death of their ancestor, they were not barred of their right of entry within twenty years from the determination of the lease for lives; Hunt v. Bourns, 1 Salk. 339; Id. 421, 4 Br.

⁽²⁾ These two last clauses introduce an important alteration into the law, with reference to persons having remainders in reversion dependant upon estates tail. The 21 Jac. 1, c. 16, in no case began to operate with respect to any individual, until his title to the possession had accrued; and therefore, as the right of entry of a remainder man did not arise until the failure of the tenant in tail's issue, the statute did not commence to run against him until that event had happened; nor could be be prejudiced by any neglect of the tenant in tail, or his issue. Consequently the remainderman might, notwithstanding there had been an adverse enjoyment of the property for centuries against the tenant in tail and his issue, by which they were barred, at any time within twenty years after the failure of such issue have brought an ejectment to recover the estate; Tuylor v Horde, 1 Burr. 60; S. C. Cowp. 689. Now adverse possession for twenty years against a tenant in tail is made a bar to him, and to all those in remainder or reversion whom he might have barred, and when once time s commenced to run against a tenant in tail, it shall continue to run against person claiming inists whom he might have barred.

possession or receipt for the period of twenty years next after the commencement of the time at which such assurance, if it had then been exe- 3 & 4 W.4, cuted by such tenant in tail or the person who would have been entitled to his estate tail if such assurance had not been executed, would, without the consent of any other person, have operated to bar such estate or estates as aforesaid, then at the expiration of such period of twenty years after the such assurance shall be and be deemed to have been effectual as against time when the any person claiming any estate, interest, or right to take effect after or assurance, if in defeasance of such estate tail. (1)

XXIV. That after the said thirty-first day of December one thousand No suit in eight hundred and thirty-three no person claiming any land or rent in equity to be equity shall bring any suit to recover the same but within the period brought after during which by virtue of the provisions herein-before contained he the time when might have made an entry or distress or brought an action to recover the plaintiff, if the same respectively if he had been entitled at law to such estate, in-entitled at law, terest, or right in or to the same as he shall claim therein in equity. (2)

brought an action. XXV. Provided always, That when any land or rent shall be vested In cases of exin a trustee upon any express trust, the right of the cestui que trust, or press trust, the any person claiming through him, to bring a suit against the trustee, or right shall not any person claiming through him, to recover such land or rent, shall be be deemed to deemed to have first accrued, according to the meaning of this act, at have accrued and not before the time at which such land or rent shall have been con- until a conveyveyed to a purchaser for a valuable consideration, and shall then be ance to a purdeemed to have accrued only as against such purchaser and any person chaser. claiming through him. (3)

XXVI. That in every case of a concealed fraud the right of any person In cases of fraud to bring a suit in equity for the recovery of any land or rent of which he, no time shall or any person through whom he claims, may have been deprived by run whilst the such fraud, shall be deemed to have first accrued at and not before the fraud remains. time at which such fraud shall or with reasonable diligence might have been first known or discovered; provided that nothing in this clause contained shall enable any owner of lands or rents to have a suit in

No. II. c. 27.

then executed, would have barred them.

(2) Courts of equity have always considered equitable rights as bound by the same limitations as were imposed by statute on proceedings at law, I P. Wms. 742; 3 P. Wms. 143; and see 2 Sch. & Lef. 630; they also adopted the exceptions in the statute of limitations, and permitted persons. to prosecute their claims within ten years after the removal of their disabilities; 3 P. Wms. 287 n.; 4 *Br*. C. C. 441.

(3) In the case of a direct trust, time is not allowed as between the trustee, and the cestui que trust, to operate as a bar to the latter; Barnard, 449, 1 Br. C. C. 551. But the rule was held not to apply to a claim, after a great length of time, against a trustee by implication of law arising upon a doubtful equity; Townsend v. Townsend, 1 Cox, 28; and a court of equity will not permit a case of constructive trust to be made out at any distance of time; and where relief would originally have been given upon the ground of constructive trust, it is refused after long acquiescence by the party seeking it; Beckford v. Wude, 17 Ves. 97.

The rule, however, that trusts are not within the statute of limitations, is confined to cases between the cestui que trust and the trustee; therefore, where both are out of possession for the limited tim they are both barred; Barnard. 445; 6 Ves. 199; 8 Ves. 106; 2 Sch. & Lef. 629.

⁽¹⁾ Previous to this act, where an heir in tail brought an ejectment against a defendant who had been in receipt of the rents for thirty years during the life of the ancestor in tail, (who had had seisin), and for seven years after his decease; it was held that such possession by the defendant was no bar to the action, and that the heir was not bound to rebut the presumption arising from such possession, by showing that the ancestor had not conveyed by fine and recovery. For though he might have so conveyed, he might also have conveyed by lease and release, which would have made a good title against himself only, and would not have barred the next tenant in tail; and the long possession by the defendant might be referrible to such a state of things; 3 B & Ad. 738; S. C. 1 N. & M. 385. It is to be observed, that the above clause relates only to cases where there has been an assurance made by a tenant in tail, and does not apply where, as in the decision just quoted, there has been no conveyance from the tenant in tail. It is probable, however, were a similar case to occur hereafter that the courts would hold that the possession was evidence of an assurance by the tenant in tail, sufficient to bring the case within the above clause, or at least that it raised a presumption, which the heir in tail must rebut by showing there had been no such assurance.

No. II.

Eaving the jurisdiction of equity on the ground of acquiescence or otherwise.

Mortgagor to be barred at the end of twenty years from the time when the mortgagee took possession, or from the last written ac-

equity for the recovery of such lands or rents, or for setting aside any 3 & 4 W. 4, conveyance of such lands or rents, on account of fraud, against any bond fide purchaser for valuable consideration who has not assisted in the commission of such fraud, and who at the time that he made the purchase did not know and had no reason to believe that any such fraud had been committed. (1)

XXVII. Provided always, That nothing in this act contained shall be deemed to interfere with any rule or jurisdiction of courts of equity in refusing relief on the ground of acquiescence or otherwise to any person whose right to bring a suit may not be barred by virtue of this

act. (2)

XXVIII. That when a mortgagee shall have obtained the possession or receipt of the profits of any land, or the receipt of any rent, comprised in his mortgage, the mortgagor or any person claiming through him shall not bring a suit to redeem the mortgage but within twenty years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgment of the title of the mortgagor or of his right of redemption shall have been given to the mortgagor, or some person claiming his estate, or to the agent of such mortgagor or person, in writing signed by the mortgagee or the knowledgment. person claiming through him; and in such case no such suit shall be brought but within twenty years next after the time at which such acknowledgment, or the last of such acknowledgments if more than one, was given; and when there shall be more than one mortgagor, or more than one person claiming through the mortgagor or mortgagors, such acknowledgment, if given to any of such mortgagers or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons; but where there shall be more than one mortgagee, or more than one person claiming the estate or interest of the mortgagee or mortgagees, such acknowledgment, signed by one or more of such mortgagees or persons, shall be effectual only as against the party or parties signing as aforesaid, and the person or persons claiming any part of the mortgage money or land or rent by, from, or under him or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests, and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money or land or rent; and where such of the mortgagees or persons aforesaid as shall have given such acknowledgment shall be entitled to a divided part of the land or rent comprised in the mortgage, or some estate or interest therein, and not to any ascertained part of the mortgaged money, the mortgagor or mortgagors shall be entitled to redeem the same divided part of the land or rent on payment, with interest, of the part of the mortgage money which shall bear the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent shall bear to the value of the whole of the land or rent comprised in the mortgage. (3)

⁽¹⁾ It has been long held in equity that length of time is no bar in cases of fraud; 1 Fonbl. Eq. 331; 3 Br. C. C. 633; 1 Mer. 436; 12 Ves. 355; 3 Swans. 400; but where the facts constituting the fraud had been in the knowledge of the party, and he had laid by for twenty-five years, relief was refused; 2 Ball & B. 118.

⁽²⁾ Long acquiescence by a party acquainted with the facts, is held in equity to be a bar to relief for setting aside a lease on the ground of fraud, or mistake, and an heir at law has been refused an issue devisavit vel non after twenty-years acquiescence in a will; Tucker & others v. Sanger, M'Clel. 424; S. C. 13 Price, 119. But acquiescence will not be considered to have taken place, so long as the undue influence on the one side, and the distress on the other out of which the transaction arose, Purcell v. Macnamara, 14 Ves. 106; and where all the parties are under the influence of a common mistake, the doctrine of acquiescence does not apply, 2 Mer. 362. (3) Previous to this act, twenty years' possession by a mortgagee, without any acknowledg-

XXIX. Provided always, That it shall be lawful for any archbishop, bishop, dean, prebendary, parson, vicar, master of hospital, or other 3 & 4 W. 4, spiritual or eleemosynary corporation sole, to make an entry or distress or to bring an action or suit to recover any land or rent within such period as berein-after is mentioned next after the time at which the No lands or right of such corporation sole, or of his predecessor, to make such entry rents to be reor distress or bring such action or suit shall first have accrued; (that is covered by to say,) the period during which two persons in succession shall have ecclesiastical or held the office or benefice in respect whereof such land or rent shall be eleemosynary claimed, and six years after a third person shall have been appointed corporations thereto, if the times of such two incumbencies and such term of six sole but within two incumyears taken together shall amount to the full period of sixty years; and bencies and six if such times taken together shall not amount to the full period of sixty years, or sixty years, then during such further number of years in addition to such six years. years as will, with the time of the holding of such two persons and such six years, make up the full period of sixty years; and after the said thirty-first day of December one thousand eight hundred and thirtythree no such entry, distress, action, or suit shall be made or brought at any time beyond the determination of such period. (1)

XXX. That after the said thirty-first day of December one thousand No advowson eight hundred and thirty-three no person shall bring any quare impedit to be recovered or other action or any suit to enforce a right to present to or bestow any but within three church, vicarage, or other ecclesiastical benefice, as the patron thereof, incumbeucies after the expiration of such period as hereinafter is mentioned; (that is or sixty years. to say,) the period during which three clerks in succession shall have held the same, all of whom shall have obtained possession thereof adversely to the right of presentation or gift of such person, or of some person through whom he claims, if the times of such incumbencies taken together shall amount to the full period of sixty years; and if the times of such incumbencies shall not together amount to the full period of sixty years, then after the expiration of such further time as with the times of such incumbencies will make up the full period of sixty

years. (2)

XXXI. Provided always, That when on the avoidance, after a clerk Incumbencies shall have obtained possession of an ecclesiastical benefice adversely to after lapse to be the right of presentation or gift of the patron thereof, a clerk shall be reckoned withpresented or collated thereto by his Majesty or the ordinary by reason of in the period. a lapse, such last-mentioned clerk shall be deemed to have obtained pos-but not incum-

No. II.

ment of the mortgagor's title, was a bar in equity to the claim of the latter; 2 J. & W. 158. But if within the twenty years the mortgagee had kept accounts, or otherwise dealt with the property as mortgagee, he was not protected by the mortgagor's negligence; 6 Mad. 181; S. C. 1 Ves. & B. 536. So an acknowledgment to a third party, as an assignment by the mortgagee of his interest, treating it as a mortgage; 4 Ves. 478; or recognizing it in a will, or in any other deed, as such; 2 Eq. Cas. Abr. 600; 2 Br. C. C. 399; 13 Ves. 455; 1 Sim. & S. 347; was held to preserve the mortgagor's right to redeem. And a parol acknowledgment of the mortgage within twenty years was sufficient, 6 Mad. 274; but the proof must have been clear and unimpeachable, 2 Cox, 295.

(1) Ecclesiastical corporations, and ecclesiastical persons seised in right of their churches, were not within the former statutes of limitations. But although neither the acts nor neglect of ecclesiastical persons barred their successors, yet incumbents, by submitting to an adverse possession, or by doing other acts, might be individually bound; Plowd. 358, 375, n.; 4 B. & A. 579; 5 B. & C. 696; Ecclesiastical persons are also within the act shortening the time of prescription in certain cases (2 & 3 W. 4, c. 71), see ante. And their claims are greatly limited by the modus act (2 & 3 W.

4. c. 100.) See Part II., Class 2, Tithes.

(2) By the 1st Mary, stat. 2, c. 5, (extended to Ireland by the 10th Car. 1, st. 2, c. 6,) it was enacted, That the 32d H. B, c. 2, should not extend to a writ of right of advowson, quare impedit, assize of darreign presentment nor jus patronatus, but the time of seisin to be alleged in such cases should be as it was at the common law, before the making of the said statute, which was from the commencement of the reign of Richard the first. By the 7th Anne, c. 18, (extended to Ireland, by I G. 2, c. 23, see Evans's Statutes, Purt I., Class 2,) it was provided, That no usurpation should displace the estate of the patron, and that he might present or maintain his quare impedit upon the next avoidance, notwithstanding such usurpation. This enactment took away all limitations of suitrespecting the rights of patronage. See 3 Bl. Comm. 250.

No. II. 3 & 4 W. 4, c. 27.

bencies after promotions to bishopricks.

When person claiming an advowson in remainder, &c. after an estate tail, shall be barred.

No advowson to be recovered

session adversely to the right of presentation or gift of such patron as aforesaid; but when a clerk shall have been presented by his Majesty upon the avoidance of a benefice in consequence of the incumbent thereof having been made a bishop, the incumbency of such clerk shall, for the purposes of this act, be deemed a continuation of the incumbency of the clerk so made bishop.

XXXII. That in the construction of this act every person claiming a right to present to or bestow any ecclesiastical benefice, as patron thereof, by virtue of any estate, interest, or right which the owner of an estate tail in the advowson might have barred, shall be deemed to be a person claiming through the person entitled to such estate tail, and the right to bring any quare impedit, action, or suit, shall be limited

accordingly.

XXXIII. Provided always, That after the said thirty-first day of December one thousand eight hundred and thirty-three no person shall after 100 years. bring any quare impedit or other action or any suit to enforce a right to present to or bestow any ecclesiastical benefice, as the patron thereof, after the expiration of one hundred years from the time at which a clerk shall have obtained possession of such benefice adversely to the right of presentation or gift of such person, or of some person through whom he claims, or of some person entitled to some preceding estate or interest, or undivided share, or alternate right of presentation or gift, held or derived under the same title, unless a clerk shall subsequently have obtained possession of such benefice on the presentation or gift of the person so claiming, or of some person through whom he claims, or of some other person entitled in respect of an estate, share, or right held or derived under the same title.

XXXIV. That at the determination of the period limited by this act the period of li- to any person for making an entry or distress, or bringing any writ of quare impedit or other action or suit, the right and title of such person to the land, rent, or advowson for the recovery whereof such entry, distress, action, or suit respectively might have been made or brought

within such period, shall be extinguished. (1) XXXV. That the receipt of the rent payable by any tenant from year to year, or other lessee, shall, as against such lessee or any person claiming under him (but subject to the lease), be deemed to be the

receipt of the profits of the land for the purposes of this act.

XXXVI. That no writ of right patent, writ of right quia dominus remisit curiam, writ of right in capite, writ of right in London, writ of right close, writ of right de rationabili parte, writ of right of advowson, writ of right upon disclaimer, writ de rationabilibus divisis, writ of right of ward, writ de consuetudinibus et servitiis, writ of cessavit, writ of escheat, writ of quo jure, writ of secta ad molendinum, writ de essendo quietum de theolonio, writ of ne injuste vexes, writ of mesne, writ of quod permittat, writ of formedon in descender, in remainder, or in reverter, writ of assize of novel disseisin, nuisance, darrein-presentment, juris utrum, or mort d'ancestor, writ of entry sur disseisin, in the quibus, in the per, in the per and cui, or in the post, writ of entry sur intrusion, writ of entry sur alienation dum fuit non compos mentis, dum fuit infra ætatem, dum fuit in prisona, ad communem legem, in casu proviso, in consimili casu, cui in vita, sur cui in vita, cui ante divortium, or sur cui ante divortium, writ of entry sur abatement, writ of entry quare ejecit infra terminum, or ad terminum qui præteriit, or causa matrimonii prælocuti, writ of aiel, besaiel, tresaiel, cosinage, or nuper obiit, writ of waste, writ of partition, writ of disceit, writ of quod

ei deforceat, writ of covenant real, writ of warrantia chartæ, writ of

curia claudenda, or writ per quæ servitia, and no other action real or

mitation the right of the party out of possession to be extinguished.

At the end of

Receipt of rent to be deemed receipt of profits.

Real and mixed actions abolished after the 31st December 1834,

except for dower, quare Impedit, and ejectment.

⁽¹⁾ The former statutes of limitation were held not to bar the right, but only the remedy, 1 Saund. 283, a. n; 2 B. & Ad. 413. The present act has wisely put an end to such an absurd disaction.

No. II.

mixed (except a writ of right of dower, or writ of dower unde nihil habet, or a quare impedit, (1) or an ejectment,) and no plaint in the 3 & 4 W. 4, nature of any such writ or action (except a plaint for freebench or dower), shall be brought after the thirty-first day of December one thou-

c. 27.

sand eight hundred and thirty-four.

XXXVII. Provided always, That when, on the said thirty-first day of Real actions December one thousand eight hundred and thirty-four, any person who may be brought shall not have a right of entry to any land shall be entitled to maintain until the 1st any such writ or action as aforesaid in respect of such land, such writ June 1835. or action may be brought at any time before the first day of June one thousand eight hundred and thirty-five, in case the same might have been brought if this act had not been made, notwithstanding the period of twenty years herein-before limited shall have expired.

XXXVIII. Provided also, That when, on the said first day of June Saving the one thousand eight hundred and thirty-five, any person whose right of rights of perentry to any land shall have been taken away by any descent cast, dis-sons entitled to continuance, or warranty, might maintain any such writ or action as real actions aforesaid in respect of such land, such writ or action may be brought commencement after the said first day of June one thousand eight hundred and thirty- of the act, &c. five, but only within the period during which by virtue of the provisions of this act an entry might have been made upon the same land by the person bringing such writ or action if his right of entry had not been

so taken away.

XXXIX. That no descent cast, discontinuance, or warranty, (2) which No descent. may happen or be made after the said thirty-first day of December one warranty, &c. thousand eight hundred and thirty-three shall toll or defeat any right of to bar a right of

entry or action for the recovery of land.

XL. That after the said thirty-first day of December one thousand Money charged eight hundred and thirty-three no action or suit or other proceeding upon land and shall be brought, to recover any sum of money secured by any mort-legacies to be gage, judgment, or lien, or otherwise charged upon or payable out of any deemed satisland or rent, at law or in equity, or any legacy, but within twenty fied at the end years next after a present right to receive the same shall have accrued to twenty years if some person capable of giving a discharge for or release of the same, no interest paid unless in the meantime some part of the principal money, or some in- or acknowterest thereon, shall have been paid, or some acknowledgment of the ledgment in right thereto shall have been given in writing signed by the person writing in the by whom the same shall be payable, or his agent, to the person entitled meantime. thereto or his agent; and in such case no such action or suit or proceeding shall be brought but within twenty years after such payment or acknowledgment, or the last of such payments or acknowledgments if more than one, was given. (3)

Also, it seems, that the lapse of twenty-one years after the testator's death, without any demand of legacy, would have been sufficient to raise a presumption of payment, Montresor v. Williams, 1 Rop. on Leg. 792, 2d ed. In a recent case this doctrine received great consideration, and there it was held that a party was barred, by length of time, who had bought a legacy which was assigned to him twenty-seven years after the testator's death, and four years more had elapsed before he file

his bill; Campbell v. Graham, 1 Russ. & M. 453.

⁽¹⁾ See the act giving costs in quare impedit, post, Part IV., Class XI.

⁽²⁾ By the 3 & 4 W. IV. c. 74, s. 14, all warranties of lands after the 31st December 1833, by tenants in tail are declared wholly void. See ante, Part II, Class 1; Fines and Recoveries. It is to be observed that in consequence of the abolitions of fines by the above act, a title to lands can no longer be acquired by a fine levied with proclamations and nonclaim for five years, under the provisions of the 4 H. 7, c. 24.

⁽³⁾ Previous to this act, if a mortgagee continued in possession, and there had been neither payment nor demand of principal or interest for twenty years, a court of equity would presume payment, 1 Chan. Rep. 59, 105; Trash v. White, 3 Br. C. C. 289; Christopher v. Sparke, 2 Jac. & Walk. 228; Cooks v. Soltau, 2 Sim. and St. 154; but such presumption might be rebutted by circumstances, and the payment of interest, even in part of the debt, would keep the whole alive. Loftus v. Smith; 2 Sch. & L. 642. So a lapse of twenty years raised a presumption that a judgment had been satisfied, Peake's Ev. 25 n.; Kemys v. Ruscomb, 2 Atk. 45; Willaume v. Gorges 1 Campb. 217.

No. II. c. 27.

XLI. That after the said thirty-first day of December one thousand 3 & 4 W. 4, eight hundred and thirty-three no arrears of dower, nor any damages on account of such arrears, shall be recovered or obtained by any action or suit for a longer period than six years next before the commencement of such action or suit. (1)

No arrears of dower to be recovered for more than six years. No arrears of for more than six years.

XLII. That after the said thirty-first day of December one thousand rent or interest eight hundred and thirty-three no arrears of rent or of interest in respect to be recovered of any sum of money charged upon or payable out of any land or rent, or in respect of any legacy, or any damages in respect of such arrears of rent or interest, shall be recovered by any distress, action, or suit but within six years next after the same respectively shall have become due, or next after an acknowledgment of the same in writing shall have been given to the person entitled thereto, or his agent, signed by the person by whom the same was payable, or his agent: Provided nevertheless, That where any prior mortgagee or other incumbrancer shall have been in possession of any land, or in the receipt of the profits thereof, within one year next before an action or suit shall be brought by any person entitled to a subsequent mortgage or other incumbrance on the same land, the person entitled to such subsequent mortgage or incumbrance may recover in such action or suit the arrears of interest which shall have become due during the whole time that such prior mortgagee or incumbrancer was in such possession or receipt as aforesaid, although such time may have exceeded the said term of six years. (2)

XLIII. That after the said thirty-first day of December one thousand to the spiritual eight hundred and thirty-three no person claiming any tithes, legacy, or other property for the recovery of which he might bring an action or suit at law or in equity, shall bring a suit or other proceeding in any spiritual court to recover the same but within the period during which

he might bring such action or suit at law or in equity.

Act not to extend to Scotvowsons in

Ireland.

Act to extend

courts.

XLIV. Provided always, That this act shall not extend to Scotland; and shall not, so far as it relates to any right to permit to or bestow any land, nor to ad- church, vicarage, or other ecclesiastical benefice, extend to Ireland.

> [No. III.] 3 & 4 W. 4. c. 42.—An Act for the further Amendment of the Law, and the better Advancement of Justice. [14th August 1833.]

Limitation of action of debt on specialties, &c.

III. That all actions of debt for rent upon an indenture of demise, all actions of covenant or debt upon any bond or other specialty, and all actions of debt (3) or scire facias upon any recognizance, and also all

(1) Before this act there was no limitation to a claim of arrears of dower either at law or in equity; see Oliver v. Richardson, 9 Ves. 222. See the recent statute amending the law of dower. See ante,

(2) This clause contains no exception in favour of persons under disabilities; and Sir E. Sugden suggests that it "should be modified without loss of time, or the grossest injustice will be committed upon the just rights of legatees and others, particularly infant legatees." Vend. & Purch. 1 vol. 411 n. last ed.

(3) The object of this clause was, to fix a period of limitation for such actions as had been decided not to be within the 21st Jac. 1, c. 16. It was held that an action of debt for rent reserved on a lease by indenture was out of that statute, the lease by indenture being equal to a specialty; Hutt, 109; 1 Saund. 38. Also an action of debt for an escape was not within the statute, not only because it is founded in maleficio, and arises on a contract in law, which is different from those actions of debt on a lending or contract mentioned in the statute, but also because it is grounded on 1 Rich. 2, c. 12, which first gave an action of debt for an escape, there being no remedy for creditors before, but by action on the case; I Saund. 37; Jones v. Pope, I Lev. 191; ² Keb. 903; 1 Sid. 305. Neither did the statute extend to actions of covenant, nor to any actions

bt in specialties, or other matter of a higher nature; I Sound. 38. Thus a scire facias being

actions of debt upon any award where the submission is not by specialty, or for any fine due in respect of any copyhold estates, or for an escape, or for money levied on any fieri facias, and all actions for penalties, damages, or sums of money given to the party grieved, by any statute now or hereafter to be in force, that shall be sued or brought at any time after the end of the present session of parliament, shall be commenced and sued within the time and limitation herein-after expressed, and not after; that is to say, the said actions of debt for rent upon an indenture of demise, or covenant or debt upon any bond or other specialty, actions of debt or scire facias upon recognizance, within ten years after the end of this present session, or within twenty years after the cause of such actions or suits, but not after; the said actions by the party grieved, one year after the end of this present session, or within two years after the cause of such actions or suits but not after; and the said other actions within three years after the end of this present session, or within six years after the cause of such actions or suits, but not after; provided that nothing herein contained shall extend to any action given by any statute where the time for bringing such action is or shall be by any statute specially limited.

IV. That if any person or persons that is or are or shall be entitled to Infants, femes any such action or suit, or to such scire facias, is or are or shall be, at covert, &c. the time of any such cause of action accrued, within the age of twentyone years, feme covert, non compos mentis, or beyond the seas, (1) then such person or persons shall be at liberty to bring the same actions, so as they commence the same within such times after their coming to or being of full age, discovert, of sound memory, or returned from beyond the seas, as other persons having no such impediment should, according Absence of to the provisions of this act, have done; and that if any person or per-beyond seas sons against whom there shall be any such cause of action is or are, or provided for. shall be at the time such cause of action accrued, beyond the seas, then the person or persons entitled to any such cause of action shall be at liberty to bring the same against such person or persons within such times as are before limited after the return of such person or persons

from beyond the seas.

V. Provided always, That if any acknowledgment shall have been Proviso in case made, either by writing signed by the party liable by virtue of such in- of acknowledgdenture, specialty, or recognizance, or his agent, or by part payment or ment in writing, part satisfaction on account of any principal or interest being then due or by part thereon, it shall and may be lawful for the person or persons entitled to payment. such actions to bring his or their action for the money remaining unpaid and so acknowledged to be due within twenty years after such acknowledgment by writing or part payment or part satisfaction as aforesaid, or in case the person or persons entitled to such action shall at the time of such acknowledgment be under such disability as aforesaid, or the party making such acknowledgment be, at the time of making the

founded on matter of record was not within the act. So this statute could not be pleaded to an action of debt brought against a sheriff for money by him levied on a fieri facias; because the action is founded in maleficio, as also upon the judgment on which the fieri facias issued, which is a matter of record; 1 Mod. 212, 245; 2 Show. 79. And an action of debt on an award under the hand and seal of the arbitrators, though the submission was by parol, was not within the statute; 2 Saund. 64; Sid. 415; 1 Lev. 273; 1 Keb. 462, 496, 533. Nor an action of debt for a fine of a copyholder; 1 Keb. 536; 1 Lev. 273. Neither was an action of debt upon bond within the statute; Cowp. 102; but after a lapse of twenty years, without payment of interest or any acknowledgment of it by the obligor, the law presumed it to be satisfied; 1 Term. Rep. 270; and in some cases satisfaction was presumed within that period; 1 Bur. 434, n. (a), 1 Term. Rep. 270; 1 Camp. 26.

As to what steps are to be taken to prevent the operation of the statutes of limitations. See the

Uniformity of Process Act, 2 W. 4, c. 39, 10, ante, Part IV., Class III.

⁽¹⁾ Imprisonment, which is one of the disabilities enumerated in the 21st Jac. 1, c. 16, s. 2. (See Evans's Statutes, Part IV., Class VIII), is not included in those contained in this and the other recent acts of limitation.

No. III. c. 42.

The limitation after judgment or outlawry reversed.

No part of the &c. to be this act.

same, beyond the seas, then within twenty years after such disability 3 & 4 W. 4, shall have ceased as aforesaid, or the party shall have returned from beyond seas, as the case may be; and the plaintiff or plaintiffs in any such action on any indenture, specialty, or recognizance may, by way of replication, state such acknowledgment, and that such action was brought within the time aforesaid, in answer to a plea of this statute.

VI. And nevertheless be it enacted, if in any of the said actions judgment be given for the plaintiff, and the same be reversed by error, or a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment the judgment be given against the plaintiff, that he take nothing by his plaint, writ, or bill, or if in any of the said actions the defendant shall be outlawed, and shall after reverse the outlawry, That in all such cases the party plaintiff, his executors or administrators, as the case shall require, may commence a new action or suit from time to time within a year after such judgment reversed, or such judgment given against the plaintiff, or outlawry reversed, and not after.

VII. That no part of the united kingdom of Great Britain and Ireunited kingdom, land, nor the islands of Man, Guernsey, Jersey, Alderney, and Sark, nor any islands adjacent to any of them, being part of the dominions of his deemed beyond Majesty, shall be deemed to be beyond the seas within the meaning of the seas within this act, or of the act passed in the twenty-first year of the reign of king the meaning of James the first, intituled An Act for Limitation of Actions, and for avoiding of Suits in Law. (1)

⁽¹⁾ Previous to this enactment, Dublin, or any place in Ireland, was beyond the seas within the meaning of the 21 Jac. c. 16.

PART IV.

CLASS IX.

JURIES AND TRIALS.

[No. I.] 2 W. 4, c. 47.—An Act for holding the Assizes for the County of Norfolk, and for the City of Norwich and County of the same City, twice in every Year at [23rd June 1832.] Norwich.

WHEREAS it is expedient that the assizes for the city of Norwich and county of the same city be held twice in each year in the said city and county of the said city: And whereas the holding the same as aforesaid would be conducive to the more speedy and effective and due administration of justice therein: And whereas it is likewise expedient that the assizes for the county of Norfolk should henceforth be held twice in each year in and at the shire-house at the castle of Norwich: Be it therefore enacted, &c. That from and after the first day of January All commisone thousand eight hundred and thirty-three all the commissions of sions of general assize and nisi prius, and all general commissions of over and terminer, gaol delivery, and all commissions of general gaol delivery, which shall be appointed &c. for Norto be held and executed for the said city of Norwich and county of the wich and Norsaid city, and for the said county of Norfolk, respectively, shall be held folk shall be and executed for the said city of Norwich and county of the said city at held twice and in the said city of Norwich and county of the said city, and for the every year at said county of Norfolk, in the shire-house at the castle of Norwich; and that the said commissions for the said city of Norwich and county of the said city, and for the said county of Norfolk, respectively, shall be appointed and executed at and in the said city of Norwich and county of the said city, and at and in the said shire-house at the castle of Norwich, twice in every year, (that is to say,) at or about the usual times for holding the lent and summer assizes respectively; any law, statute, usage, matter, or thing to the contrary notwithstanding.

II. Provided always, That if at any time hereafter the said city of For holding Norwich and county of the said city, or the said shire-house at the castle commissions in of Norwich shall be wholly unfit for holding assizes there, by accident of case of accifire, or by means of any contagious or epidemical distemper, or by dents, &c. to reason of any civil tumults or disorder, or the danger or reasonable the city of Norapprehension thereof, or by reason of any other unforeseen cause or exi-wich. gency, the same or any of the aforesaid matters to be made to appear before the lord high chancellor, or lord keeper or lords commissioners for keeping the great seal, for the time being, that then and in such cases only it shall and may be lawful to and for the said lord high chancellor, or lord keeper or lords commissioners for keeping the great seal, for the time being, with the advice of the justices of assize, from time to time in and during the continuance of such respective exigencies only, and for and at no other time or times, to appoint some convenient place within the said county of Norfolk for holding the said assizes, and each or either of them, instead of the said city of Norwich and county of the said city, or the said shire-house at the castle of Norwich, any thing in

this present act contained to the contrary notwithstanding.

[No. II.] 2 & 3 W. IV. c. 60.—An Act for holding the Assizes for the King's County in Ireland, Twice in every Year, at Tullamoore, instead of Philipstown.

[4th July 1832.]

WHEREAS it is expedient that the assizes for the king's county in that part of the united kingdom called Ireland be held twice in each year in the town of Tullamoore, instead of in the town of Philipstown in the said king's county: And whereas the holding the same as aforesaid would be conducive to the more speedy and effective and due administration of justice therein; be it therefore enacted, &c., That from and after the first day of July one thousand eight hundred and thirty-five the said town of Tullamoore aforesaid shall be deemed and taken to be the shire town of the said county, and that all the commissions of assize and nisi prius, and all general commissions of over and terminer, and all commissions of general gaol delivery, which shall be appointed to be held and executed for the said king's county shall be held and executed for the said king's county, at and in the said town of Tullamoore; and that the said commissions for the said king's county shall be appointed and executed at and in the said town of Tullamoore twice in every year, (that is to say) at or about the usual times for holding the lent and summer assizes respectively; any law, statute, usage, matter, or thing to the contrary notwithstanding.

Proviso for holding assizes in case of accident to the town of Tullamoore.

Assizes to be

held in future

at Tullamoore

instead of Phi-

lipstown.

II. Provided always, and it is hereby enacted and declared, That if at any time hereafter the said town of Tullamoore shall be wholly unfit for holding assizes there, by accident of fire, or by means of any contagiousor epidemical distemper, or by reason of any civil tumults or disorder, or the danger or reasonable apprehension thereof, or by reason of any other cause or exigency, the same or any of the aforesaid matters to be made to appear before the lord high chancellor, or lord keeper or lords commissioners for keeping the great seal of Ireland, for the time being, that then and in such cases only it shall and may be lawful to and for the said lord high chancellor, or lord keeper or lords commissioners for keeping the great seal of Ireland for the time being, with the advice of the justices of assize, from time to time in and during the continuance of such respective exigencies only, and for and at no other time or times, to appoint some convenient place within the said king's county for holding the said assizes, and each or either of them, instead of the said town of Tullamore; any thing in this present act contained to the contrary notwithstanding.

Tullamoore to be deemed a town within the meaning of 53 G.3. c. 131.

III. That the said town of Tullamoore shall, from and after the passing of this act, be deemed and taken to be, for the purposes aforesaid, a town and place for holding whereat the assizes of said county, provision may be made by all such ways and means as are prescribed for providing for the holding of the assizes of any county, county of a city, or county of a town, under and by virtue of an act passed in the fifty-third year of the reign of his Majesty king George the third, intituled An Act to make further regulations for the building and repairing of Court Houses and and Sessions Houses in Ireland.

[No. III.] 3 & 4 W. IV. c. 42.—An Act for the further Amendment of the Law, and the better Advancement of [14th August 1833.] Justice.

XVI. And whereas it would also lessen the expence of trials and Writs of inprevent delay if such writs of inquiry as herein-after mentioned were quiry under the executed, and such issues as herein-after mentioned were tried, before statute 8 & 9 the sheriff of the county where the venue is laid; be it therefore W.3. c. 11, to enacted, That all writs issued under and by virtue of the statute passed be executed in the session of parliament held in the eighth and ninth years of the before the shereign of king William the third, intituled An Act for the better preventing riff, unless frivolous and vexatious suits, shall, unless the court where such action is otherwise pending, or a judge of one of the said superior courts, shall otherwise, order, direct the sheriff of the county where the action shall be brought to summon a jury to appear before such sheriff, instead of the justices or justice of assize or nisi prius of that county, to inquire of the truth of the breaches suggested, and assess the damages that the plaintiff shall have sustained thereby, and shall command the said sheriff to make return thereof to the court from whence the same shall issue at a day certain, in term or in vacation, in such writ to be mentioned; and such proceedings shall be had after the return of such writ as are in the said statute in that behalf mentioned, in like manner as if such writ had been executed before a justice of assize or nisi prius (1).

XVII. That in any action depending in any of the said superior courts Power to direct for any debt or demand in which the sum sought to be recovered, and issues joined endorsed on the writ of summons, shall not exceed twenty pounds (2), in certain acit shall be lawful for the court in which such suit shall be depending tions to be tried or any judge of any of the said courts, if such court or judge shall be before the shesatisfied that the trial will not involve any difficult question of fact or riff or any law, and such court or judge shall think fit so to do, to order and direct judge. that the issue or issues joined shall be tried before the sheriff of the county where the action is brought, or any judge of any court of record (3) for the recovery of debt in such county, and for that purpose a writ shall issue directed to such sheriff, commanding him to try such issue or issues, by a jury to be summoned by him, and to return such writ with the finding of the jury thereon indorsed, at a day certain, in term or in vacation, to be named in such writ; and thereupon such sheriff or judge shall summon a jury, and shall proceed to try such issue or issues (4).

(1) See the act 8 & 9 W. 3, c. 11, Evans's Statutes, Part IV. Class XII.

(3) Where a writ of trial was directed to the mayor of Colchester (who was judge of a court of record), and the trial took place before his deputy, the court refused to set aside the proceedings. on a suggestion that the mayor had no authority to delegate the power, it not appearing he had the

power to appoint a deputy. Clarke v. Marner, 4 Mo. & S. 171; 2 Dowl. 774.

⁽²⁾ This provision does not extend to a case in which the action, though not exceeding twenty pounds, is commenced by a writ of capias and detainer, or to a case where the debt is not indorsed on the writ of summons, or to a claim for a tort. Watson v. Abbot, 2 Cr. & M. 150; 2 Dowl. P. C. 215.

⁽⁴⁾ Where the plaintiff obtains an order to try before the sheriff, he must proceed in reasonable time, or the court will grant a rule to show cause why he should not proceed, or why the defendant should not have judgment as in case of a nonsuit; Mullins v. Bishop, 2 Dowl. P. C. 557. The time at which the plaintiff will be compelled to proceed will be regulated by the time when the sheriff sits; Banks v. Wright, 3 Dowl. 14. The defendant may move for judgment as in case of a nonsuit, as well where the issue is directed to be tried before the sheriff as where it comes on at the sittings; but it is too soon to move in the same term in which the default is, and where it does not appear that the notice was countermanded; Begbie v. Grenville, 2 Dowl. 238; Walls v. Redmayne. id. 508; and Horwood v. Roberts, id. 534. Patteson, J., said-" I have referred to the judges on this subject, and we are of opinion, that all proceedings preparatory to the trial of the issue before the sheriff must be considered as the course and practice of this court; they have, consequently, all the incidents connected with them. The plaintiff not having proceeded within two terms after issue joined, the defendant is entitled to judgment as in case of a nonsuit."

No. III. 3 & 4 W. 4,

c. 42. Upon the reinquiry or a trial of issues, judgment to be signed, unless, &c.

Sheriff, as to such issues, to have the like powers as judges at nisi prius.

Provisions of and issues.

extend to such

Sheriffs to name deputies to be resident in London.

XVIII. That at the return of any such writ of inquiry, or writ for the trial of such issue or issues as aforesaid, costs shall be taxed (1), judgment signed, and execution issued forthwith, unless the sheriff or his deputy before whom such writ of inquiry may be executed, or such sheriff, deputy, or judge before whom such trial shall be had, shall certurn of a writ of tify under his hand upon such writ that judgment ought not to be signed until the defendant shall have had an opportunity to apply to the court for a new inquiry or trial, or a judge of any of the said courts shall think fit to order that judgment or execution shall be stayed till a day to be named in such order; and the verdict of such jury on the trial of such issue or issues shall be as valid and of the like force as a verdict of a jury at nisi prius; and the sheriff or his deputy, or judge, presiding at the trial of such issue or issues, shall have the like powers with respect to amendment on such trial as are herein-after given to judges at nisi prius (2).

XIX. Provided also, That all and every the provisions contained in 1 W. 4. c. 7, to the statute made and passed in the first year of the reign of his present Majesty, intituled An Act for the more speedy Judgment and Execution writs of inquiry in Actions brought in his Majesty's Courts of Law at Westminster, and in the Court of Common Pleas of the County Palatine of Lancaster, and for amending the Law as to Judgment on a Cognovit actionem in Cases of Bankruptcy, shall, so far as the same are applicable thereto, be extended and applied to judgments and executions upon such writs of inquiry and writs for the trials of issues, in like manner as if the same were expressly re-enacted herein (3).

XX. That from and after the first day of June one thousand eight hundred and thirty-three the sheriff of each county in England and Wales shall severally name a sufficient deputy, who shall be resident or have an office within one mile from the Inner Temple hall, for the receipt of writs, granting warrants thereon, making returns thereto, and accepting of all rules and orders to be made on or touching the execution of any process or writ to be directed to such sheriff.

It seems that the sheriff, on a writ of trial, cannot put off the trial, but that the application must be made to a judge; Packam v. Newman, 1 C. M. & R. 584. The defendant is entitled to have a suggestion entered under the London Court of Requests Act, though the cause was tried before the sheriff by the defendant's consent; and though the motion for that purpose was not made till after the costs had been taxed, final judgment signed, and execution issued; Bond v. Bailey, 3 Dowl. 808.

Where a motion for a new trial of a cause tried before the under-sheriff was made on the notes of the under-sheriff, certified under his seal only, and verified by affidavit, the court discharged the rule; Johnson v. Wells, 4 Tyr. 270; 2 C. & M. 429; 2 Dowl. 352, S. C.; and see Burney v. Mawson, 1 Ad. & Ell. 348, n. In order to save expence, the practice recognized by the judges now is to receive the notes of the under-sheriff, &c. verified by affidavit; 2 Dowl. 352, n.; Stephen v. Pell, id. 629; Mansfield v. Breary, 1 Ad. & Ell. 347. The proper course is to have the notes verified by affidavit, without affidavit of the facts; Grainger v. Shoppee, 2 Dowl. 644. When the undersheriff refuses to send his notes, a motion for a new trial must be made on affidavit of the facts; Thomas v. Edwards, 4 Tyr. 833, 1 C. M. & R. 382; S. C. But see Metcalfe v. Parry, 2 Dowl. 589, where the court granted a rule, calling on the under-sheriff to shew cause why he should not pay the expences incurred in consequence of his refusal. But he is not answerable for his agents withholding them, unless his agent acted under his direction; 3 Dowl. 93, S. C. The court will allow further time to make a motion for a new trial, if the under-sheriff does not furnish notes in proper time; Thomas v. Edwards, 2 Dowl. 664.

(1) The plaintiff, unless otherwise ordered, may get his costs taxed, and sign judgment directly after the verdict is obtained, even on the same day. Nichols v. Chambers, 2 Dowl. 693; 1 C. M. & R. 385.

(2) A sheriff or judge of an inferior court has no power to grant a certificate as to costs under the 43 Eliz. c. 6, upon a writ of trial. Wardroper v. Richardson, 1 Ad. & Ell. 75.

(3) Under this section the court will, in the next term, entertain a motion to vacate and arrest a judgment signed in vacation, after a trial before the sheriff. Pyke v. Glendinning, 2 Dowl. 611.

No. III.

XXVIII. That upon all debts or sums certain, payable at a certain time or otherwise, the jury on the trial of any issue, or on any inquisi- 3 & 4 W. 4, tion of damages, may, if they shall think fit, allow interest to the creditor at a rate not exceeding the current rate of interest from the time when such debts or sums certain were payable, if such debts or sums Jury empowbe payable by virtue of some written instrument at a certain time, or if ered to allow payable otherwise, then from the time when demand of payment shall interest upon have been made in writing, so as such demand shall give notice to the debts. debtor that interest will be claimed from the date of such demand until the term of payment; provided that interest shall be payable in all cases in which it is now payable by law.

XXIX. That the jury on the trial of any issue, or on any inquisition In certain acof damages, may, if they shall think fit, give damages in the nature of in- tions the jury terest, over and above the value of the goods at the time of the conver- may give dasion or seizure, in all actions of trover or trespass de bonis asportatis, mages in the and over and above the money recoverable in all actions on policies of terest.

assurance made after the passing of this act.

[No. IV.] 3 & 4 W. IV. c. 71.—An Act for the Appointment of convenient Places for the holding of Assizes in England and Wales. [28th August 1833.]

TATHEREAS by a statute made in the sixth year of the reign of king Richard the second it was ordained that the justices assigned to take 6 Ric. 2, e. 5. assizes and deliver the gaols should hold their sessions in the principal and chief towns of every of the counties where the shire courts of the same counties should be holden: And whereas by a statute made in the 11 Ric. 2, c. 11 eleventh year of the same reign, reciting so much of the said statute of the sixth year as is herein-before recited, and stating that the said statute was in part prejudicial and grievous to the people of divers counties in England, it was provided that the chancellor of England for the time being should have power thereof to make and provide remedy, by advice of the justices, from time to time when need should be, notwithstanding the said statute: And whereas the places at which the assize are now held in various counties of England and Wales are inconvenient to the inhabitants thereof, and it would conduce to the more cheap, speedy, and effectual administration of justice to appoint other places instead thereof for the holding of assizes; but doubts may be entertained whether that object can be fully effected by virtue of the statutes hereinbefore referred to; be it therefore enacted, &c., That so much of each of Recited stathe said statutes as is herein-before recited shall be and the same is hereby tutes in part repealed.

II. And be it declared and enacted, That his Majesty, by and with His Majesty in the advice of his most honourable privy council, shall have power from council may time to time to order and direct at what place or places in any county in direct at what England or Wales the assizes and sessions under the commissions of places in any gaol delivery, and other commissions for the dispatch of civil and crimi-county assizes nal business, shall be holden, and to order and direct such assizes and and sessions of sessions for the dispatch of criminal and civil business to be holden at gaol delivery more than one place in the same county on the same circuit, and to shall be held, order and direct the assizes and sessions under such commissions for may be holden the dispatch of criminal business to be holden for the whole county at in more than one place and for the dispatch of civil business at one or more place or one place in places in such county, on the same circuit; and further to order and a county on the direct any special commissions of over and terminer and gaol delivery same circuit. to be holden at any one or more places in any such county.

III. That in case his Majesty, by and with the advice of his most Power to divide honourable privy council, shall think fit to order and direct that the counties for the

No. IV. 3 & 4 W. 4, c. 71. purpose of holding assizes in different divisions of the

same county.

assizes or any such special commissions shall be holden at more than one place in any one county, it shall be lawful for his Majesty, by and with the advice aforesaid, to divide any such county for the purposes of this act, and to make rules and regulations touching the venue in all cases, civil and criminal, then pending or thereafter to be pending and to be tried within any divison of such county so to be made as aforesaid: and touching the liability and attendance of jurors, whether grand jurors, special jurors, or common jurors, at the assizes and sessions as aforesaid, or at any sessions under any special commissions to be holden with any such division; and touching the use of any house of correction or prison as a common gaol, and the government and keeping thereof; and touching the alterations of any commissions, writs, precepts, or other proceedings whatsoever for carrying into effect the purposes of this act; and touching any other matters that may be requisite for carrying into effect the purposes of this act; and all such rules and regulations shall be of the like force and effect as if the same had been made by the authority of parliament, and shall be notified in the London Gazette, or in such other manner as his Majesty, by and with the advice of his most honourable privy council, shall think fit to direct.

Power to direct the court of common pleas at Lancaster to be holden at any one or more places in the county, and to divide the purpose.

IV. That his Majesty shall have power from time to time, for the purpose of carrying this act into effect, to order and direct that the court of common pleas at Lancaster shall be holden at any one or more places in the county palatine of Lancaster, as he shall think fit, and to divide the said county palatine for the purpose of the trial of civil causes and the transaction of other civil business in the said court, and to make the like rules and regulations touching the venue in civil cases to be tried within any division of the said county, and the liability and attendance county for that of jurors, whether special or common, at the court to be held within any such division, and touching the alterations of commissions, write, precepts, or other proceedings for carrying into effect the purposes of this act, and touching any other matter that may be requisite for carrying into effect the purposes of this act; and all such rules and regulations shall be of the like force and effect as if the same had been made by the authority of parliament, and shall be notified in the London Gazette, or in such other manner as his Majesty shall think fit.

> [No. V.] 3 & 4 W. IV. c. 91.—An Act for consolidating and amending the Laws relative to Jurors and Juries in [28th August, 1833.] Ireland (1).

WHEREAS the laws relative to the qualifications and summoning of jurors and the formation of juries in Ireland are numerous and complicated; and it is expedient to consolidate and simplify the same, and to alter the mode of striking special juries, and in some respects to amend the said laws; be it therefore enacted, &c. That the sheriff of any return any per-county, county of a city, or county of a town in Ireland shall not, in answer to any writ of venire facias or precept for the return of jurors, return the names of any persons not qualified to serve on juries according to the provisions of this act; and that every man, except as herein-after excepted, between the ages of twenty-one years and sixty years, residing in any county in Ireland, who shall have, in his own name or in trust for him, within the same county, ten pounds by the year above reprizes in lands or tenements, or in rents issuing out of any lands or tenements, or in lands, tenements, and rents taken together, in fee simple, fee tail, or for the life of himself or some other person or persons, or who shall

ons as jurors who are not qualified according to this act.

Age and qualification of jurors

No. V.

c. 91.

have within the same county fifteen pounds by the year above reprizes in lands or tenements held by lease or leases originally made for an ab- 3 & 4 W. 4, solute term of not less than twenty-one years, whether the same shall or shall not be determinable on any life or lives, and also every resident merchant, freeman, and householder having a house and tenements in any city, town, or borough, situate within the said county, of the clear yearly value of twenty pounds, such city, town, or borough not being a county in itself, shall be qualified with respect to property, and shall be liable to serve on juries for the trial of all issues joined in any of the king's courts of record in Dublin, and in all courts of assize, nisi prius, oyer and terminer, and gaol delivery, such issues being respectively triable in the county in which every man so qualified respectively shall reside, and shall also be qualified with respect to property, and liable to serve on grand juries in courts of sessions of the peace, and on petty juries for the trial of all issues joined in such courts of session of the peace, and triable in the county in which every man so qualified respectively shall reside; and that every man, except as herein-after excepted, being between the aforesaid ages, residing in any county of a city or county of a town in Ireland, and being there qualified as aforesaid, and also every resident merchant, freeman, and householder having lands or tenements or personal estate of the value of one hundred pounds, shall be qualified with respect to property, and shall be liable to serve as a juror for the trial of all issues joined in any of his Majesty's courts of record at Dublin, and in all courts of assize, nisi prius, over and terminer, and general delivery, such issues being respectively tried in the said city or town in which every man so qualified shall respectively serve.

II. Provided always, That all peers; all judges of the king's courts Exemptions of record in Dublin; all clergymen in holy orders; all persons who shall from serving on teach or preach in any religious congregation; all serjeants and barris-juries. ters at law actually practising; all assistant barristers; all judges of ecclesiastical courts; all advocates in ecclesiastical courts or in courts of the civil law, actually practising; all attornies, solicitors, and proctors duly admitted in any court of law or equity, or of ecclesiastical or admiralty jurisdiction, in which attornies, solicitors, and proctors have usually been admitted, actually practising and having duly taken out their annual certificates; all officers of any such courts, or of any court of criminal jurisdiction, actually exercising the duties of their respective offices; all public notaries duly admitted; all coroners, gaolers, and keepers of houses of correction; all members and licentiates of the king and queen's college of physicians in Ireland actually practising, and all other physicians actually practising; all surgeons, being members of one of the royal colleges of surgeons in London, Edinburgh, or Dublin, and actually practising; all apothecaries certificated by the court of examiners of the governor and company of the apothecaries hall of the city of Dublin, and actually practising; all officers in his Majesty's navy or army on full pay; all officers of customs and excise; all sheriffs officers, police constables, and parish clerks; all postmasters general and their deputies, and all other persons employed and acting in the service of his Majesty's post office; all treasurers, secretaries of grand juries, shall be and are hereby absolutely freed and exempted from being returned, and from serving upon any juries or inquests whatsoever, and shall not be inserted in the lists to be prepared by virtue of this act as herein-after mentioned: Provided also, that all persons exempt from serving upon juries in any of the courts aforesaid, by virtue of any prescription, charter, grant, or writ, shall continue to have and enjoy such exemption, in as ample a manner as before the passing of this act, and shall not be inserted in the lists herein-after mentioned.

III. Provided also, That no man, not being a natural-born subject of Aliens disqualithe king, is or shall be qualified to serve on juries or inquests, except fied, except on only in cases herein-after expressly provided for; and no man who hath juries de mebeen or shall be attainted of any treason or felony, or convicted of any dietate;

No. V. 3 & 4 W. 4, c. 91.

Convicts or outlaws, &c. disqualified. Clerk of the peace to issue precept to coljury cess in July.

crime that is infamous, unless he shall obtain a free pardon, nor any man who is under outlawry by virtue of any criminal process, or under excommunication, is or shall be qualified to serve on juries or inquests in any court or on any occasion whatsoever.

IV. And, for the assistance of the sheriff in framing the jurors book, be it further enacted, That the clerk of the peace in every county and clerk of the peace in every county of a city and county of a town in Ireland shall, within one week after the commencement, in every year, of the midsummer sessions herein-after next mentioned, issue and deliver his precept (in the form set forth in the schedule hereunto annexed. lectors of grand or as near thereto as may be,) to the high constable and collectors of grand jury cess in each barony, half barony, or other district of collection, and to the collectors of other cess or assessment where no grand jury cess is levied, requiring such collectors respectively to prepare and make out, within one month then next ensuing, a true list of all men residing within their respective districts qualified with respect to property, and liable to serve on juries according to this act as aforesaid, and also to perform and comply with all other the requisitions in the said precepts contained.

V. That every such clerk of the peace shall cause a sufficient number peace to annex of precepts and returns to be printed according to the several forms set printed forms of forth in the schedule marked (A.) hereunto annexed, at the expence of the county, city, or town, and shall annex to every precept a competent number of returns for the use of the respective persons by whom such

returns are to be made.

Where there be responsible for the duties required by this act.

Clerk of the

returns to his

precepts.

Collector of county cess shall make out alphabetical list of persons liable to serve on juries, with residences, &c.

Collectors to deliver lists to clerk of peace, &c.

VI. Provided always, That where, in any barony, half barony, or are several col- other district of collection, there shall be more than one such collector, lectors, each to in such case the clerk of the peace or town clerk shall issue and deliver his precept to every one of such collectors, each of whom shall be individually liable for the due performance of the several matters commanded in such precept throughout the whole of such barony, half barony, or other district, and shall for the nonperformance thereof be subject to all and every the penalties by this act imposed upon any such collector.

VII. That such high constable and collector or collectors shall forthwith, after the receipt of such precept from the clerk of the peace, prepare and make out in alphabetical order a true list of every man residing within their respective districts of collection who shall be qualified and liable to serve on juries as aforesaid, with the christian and surname written at full length, and with the true place of abode, the title, quality, calling, or business, and the nature of the qualification of every such man, in the proper columns of the form of return set forth in the sche-

dule marked (B.) hereunto annexed. VIII. That such high constable and collector or collectors, having made out according to this act a list of every than within his or their district qualified and liable to serve on juries as aforesaid, shall, within one month from the receipt of such precept as aforesaid, deliver a true copy of such list to the clerk of the peace of the county, and of every county of a city and county of a town, who shall respectively keep the same for a period of three weeks from the delivery thereof in their respective offices, to be perused by any of the inhabitants of such county, county of a city, or county of a town, at any reasonable time during such three weeks, without any fee or reward, and shall after the expiration of such three weeks lay the same before the justices assembled at special sessions in manner herein-after provided.

IX. That the justices assembled at every October general or quarter sions, place and sessions of the peace to be holden in each division of each county at time to be fixed large, and the justices for and in each county of a city and county of a for considering town in Ireland, shall, at a sessions to be holden at October in every year, fix a place within such division and within such counties of cities and counties of towns respectively, and also a time not less than two nor more than three calendar months after the first day of such general or quarter sessions, for holding a special sessions for the purpose of

At October seslists.

examining the said lists of jurors pursuant to the provisions hereincontained, and shall give public notice of such place and time; at which 3 & 4 W. 4, place and time such justices shall attend; and such high constables and collectors as aforesaid, within such divisions of counties and within such counties of cities and counties of towns respectively, shall attend the Lists to be there said justices, and shall answer upon oath such questions touching the produced consame as shall be put to them by the justices then present; and if any sidered, reman not qualified or not liable to serve on juries as aforesaid shall be formed, and inserted in any list so produced, it shall be lawful for the said justices, allowed. if satisfied, from the oath of any party examined before them, or from other proof, or upon their own knowledge, that he is not qualified or not liable to serve on juries, to strike his name out of such list, and also to strike thereout the name of any man disabled by lunacy or imbecility of mind, or by deafness or blindness or other permanent infirmity, from serving on juries; and it shall also be lawful for such justices to insert in such list the name of any man omitted and who ought to have been inserted therein, and likewise to reform any errors or omissions which shall appear to them to have been committed in respect to the name, place of abode, title, quality, calling, business, or the nature of the qualification of any man included in any such list: Provided always, that no man's name, if omitted, shall be inserted in such list, nor shall any man's name be struck out of such list, nor shall any error or omission in the description of any man in such list be reformed by the said justices, unless upon the application of such men respectively, or unless such men respectively shall have had notice that an application for such purpose would be made to the justices at such special sessions, or unless the said justices at such sessions, or any two of them, shall cause notice to be given to such men respectively, requiring them to show cause, either at the same special sessions, or at an adjournment thereof to be holden within four days thereafter, and at such time and place as the said justices shall in such notice specify, why their names should not be inserted or struck out of such list, or why any error or omission in the description of such men in such list should not be reformed; and when Justices to delievery such list shall be duly corrected by the justices present at such ver one general special sessions or adjournment thereof, and allowed and signed by them amended list to or three of them, they the said justices shall cause one general list to be clerk of the made out therefrom, containing the names of all persons whose qualifi- peace to be cation shall have been so allowed, arranged according to rank and pro- kept among the perty; and the presiding justices at such sessions shall deliver the same records of the to the clerk of the peace who shall thereupon cause the same to be truly county, and coand fairly copied, in the same order, in a book to be by him provided book, to be defor that purpose, at the expence of the county, city, and town respec- livered to shetively, with proper columns for making the register herein-after directed, riff. and shall forthwith deliver the same book to the sheriff of the county, city, or town or his under sheriff, or the town clerk, which book shall be called "The Jurors Book for the Year

" (inserting the calendar year for which such book is to be in use), and that every sheriff, on quitting his office, shall deliver the same to the succeeding sheriff; and that every jurors Sheriff to delibook so prepared shall be brought into use on the first day of January ver the book to after it shall be so delivered by the clerk of the peace to the sheriff or his successor. his under sheriff, and shall be used for one year then next following.

X. That every writ of venire facias juratores, for the trial, in any Form of venire county, county of a city, or county of a town, of any issue whatsoever, facias and of whether civil or criminal, or on any penal statute, in any of the courts precept for herein-before mentioned, shall direct the sheriff of such county, city, or jurous at gaol town to return twelve good and lawful men of the body of his county, deliveries and qualified according to law, and the rest of the writ shall proceed in the sessions of the accustomed form; and that every precept to be issued for the return of Peace. jurors before courts of over and terminer, gaol delivery, and sessions of the peace, in Ireland, shall in like manner direct the sheriff to return a competent number of good and lawful men of the body of his county,

No. V. c. 91.

turned from sheriff, and by coroners and elisors.

qualified according to law, and shall not require the same to be returned 3 & 4 W. 4, from any particular venue within the county; any law, custom, or usage to the contrary notwithstanding.

XI. That the sheriff shall not, in answer to any writ of venire facias, Juries to be re. or precept for the return of jurors, return the names of any persons not contained in the jurors book for the then current year; and that where jurors book by process for returning a jury for the trial of any of the issues aforesaid shall be directed to any coroner, elisor, or other minister, he shall have free access to the jurors book for the current year, and shall not return the names of any persons not contained in the said book: Provided always, That if there shall be no jurors book in existence for the current year, it shall be lawful to return jurors from the jurors book for the year preceding; and that if it shall happen that any person not in the jurors book shall be returned, and any trial shall proceed, and verdict be found, without any objection to any such person as a juror, such trial shall not be deemed a mis-trial, nor shall the verdict thereon be impeached or questioned on account of the return of such juror; provided that nothing herein contained shall be construed to prevent any sheriff, or other returning officer, in making returns to any writ of venire or precept, from exercising his discretion in framing the panel annexed to such returns in such manner as he is now by law directed to do, save only so far as to prevent the insertion in such panel of any names not contained in the said jurors book.

Sheriff, &c. on return of writs of venire facias, to annex a panel of jurors, &c.

XII. That every sheriff or other minister to whom the return of juries for the trial of issues before any court of assize or nisi prius in any county, city, or town of Ireland may belong, shall, upon his return of every such writ of venire facias (unless in causes intended to be tried at bar, or in cases where a special jury shall be struck by order or rule of court), annex a panel to the said writ, containing the names, together with the places of abode and additions, of a competent number of jurors named in the jurors book; and that the names of the same jurors shall be inserted in the panel annexed to every venire facias for the trial of all issues at the same assizes or sessions of nisi prius in such county, city, or town, which number of jurors shall not be less than thirty-six nor more than sixty, unless by the direction of the judges appointed to hold the assizes or sessions of nisi prius in the same county, city, or town, or one of them, who are and is hereby empowered, by order under their or his hands or hand, to direct a greater or lesser number, and then such number as shall be so directed shall be the number to be returned; and such jury so returned shall be competent to try all the issues at that assizes or sessions of nisi prius; and that in the writ of habeas corpora juratorum or distringas subsequent to such writ of venire facias it shall not be requisite to insert the names of all the jurors contained in such panel, but it shall be sufficient to insert in the mandatory parts of such writs respectively, "The Bodies of the several persons in the Panel to this Writ annexed named," or words of the like import, and to annex to such writs respectively panels containing the same names as were returned in the panel to such venire facias, with their places of abode and additions; and that for making the returns and panels aforesaid, and annexing the same to the respective writs, the legal fee, and no other, shall be taken; and that the men named in such panels, and no others, shall be summoned to serve on juries at the then next court of assizes or session of nisi prius for the respective counties, cities, and towns named in such writs.

If plaintiff sue forth a venire, trial, and proceed not, he may afterwards sue forth another venire, &c. and try it at

XIII. That if any plaintiff or demandant in any cause which shall be at issue in any of his Majesty's courts of record at Dublin, or any de-&c. in order to fendant in any action of quare impedit or replevin which shall be so at issue, shall sue out any writ of venire facias upon which any writ of habeas corpora or distringas with a nisi prius shall issue, in order to the trial of the said issue at the assizes or sessions of nisi prius in any county, city, or town, and shall not proceed to trial at the first assizes or sessions of nisi prius for such county, city, or town after the teste of

such writ of habeas corpora or distringas, then and in every such case (except when a view by jurors shall be directed as herein-after men- 3 & 4 W. 4, tioned) such plaintiff, demandant, or defendant, whensoever he or she shall think fit to try the said issue at any other assizes or sessions of nisi prius for such county, city or town, shall sue forth a new writ of venire any subsequent facias, commanding the sheriff to return anew twelve good and lawful assizes. men of the body of his county, qualified according to law, and the rest of the writ shall proceed in the accustomed manner; which writ being duly returned, a writ of habeas corpora or distringas with a nisi prius shall issue thereupon (for which the same fees shall be paid as in the case of the pluries, habeas corpora or distringas with a nisi prius), upon which such plaintiff, demandant, or defendant shall and may proceed to trial as lawfully and effectually to all intents and purposes as if no former writ of venire facias had been prosecuted in that cause, and so toties quoties as the case shall require; and if any defendant or tenant in Defendant may any action depending in any of the said courts shall be minded to bring do the same. to trial, in any county, city, or town, any issue joined against him, where by the practice of the court he may do the same, by proviso, he shall or may, of the issuable term next preceding such intended trial to be had at the next assizes or sessions of nisi prius of such county, city, or town, sue out a new venire facias to the sheriff or other officer having the return of such process, in the form aforesaid, by proviso, and prosecute the same by writ of habeas corpora or distringas with a nisi prius, as lawfully and effectually to all intents and purposes as if no former writ of venire facias had been sued out or returned in that cause, and so toties quoties as the matter shall require.

XIV. That the sheriff or other minister to whom the return of jurors Copy of the for the trial of causes in any county, city, or town in Ireland may panel to be belong, shall cause to be made out a list of the names of all the jurors kept in the shecontained in the panels to the several writs of venire facias annexed as riff's office, for aforesaid, with their respective places of abode and additions; and the inspection every such sheriff or other minister shall keep such list in the office of of the parties. his under sheriff or deputy for seven days at least before the sitting of the next court of assize or nisi prius; and the parties in all causes to be tried at any such court of assize or nisi prius, and their respective attor-

nies, shall, on demand, have full liberty to inspect such lists, without any fee or reward to be paid for inspection.

XV. Provided always, That nothing herein contained shall be con- Not to alter the strued to prevent the court of king's bench, or any court of oyer and powers of terminer, gaol delivery, or court of sessions of the peace, from respec-courts to make tively having and exercising the same power and authority as they may orders for renow have and exercise, in issuing any writ or precept, or in making turning juries any award or order, orally or otherwise, for the return of a jury for the as heretofore. trial of any issue before any of such courts respectively, or for the amending or enlarging the panel of jurors returned for the trial of any such issue; and the return to every such writ, precept, award, or order, and the proceedings thereon, shall be made in the manner heretofore used and accustomed in such courts respectively; save and except that the jurors shall be returned from the body of the county, and not from any particular venue within the county, and shall be qualified according to this act.

XVI. That where in any case, either civil or criminal, or on any Where jurors penal statute depending in any of the said courts of record in Dublin, are to view it shall appear to any of the respective courts, or to any judge thereof in lands, &c. vacation, that it will be proper and necessary that the jurors or some of court may order the jurors who are to try the issue in such case should have the view of special writs of the place in question, in order to their better understanding the evi-venire facias, dence that may be given upon the trial of such issues, in every such distringas, or case such court, or any judge thereof in vacation, may order a rule to be drawn up containing the usual terms, and also requiring, if such pora. court or judge shall so think fit, the party applying for the view to deposit in the hands of the under sheriff a sum of money to be named

No. V. c. 91.

No. V. c. 91.

in the rule, for payment of the expences of the view, and commanding 3 & 4 W. 4, special write of venire facias, distringas, or habeas corpora to issue, by which the sheriff or other minister to whom the said writs shall be directed shall be commanded to have six or more of the jurors named in such writs, or in the panels thereunto annexed (who shall be mutually consented to by the parties, or, if they cannot agree, shall be nominated by the proper officer of the respective courts of king's bench, common pleas, or exchequer, at Dublin, for the causes in their respective courts), at the place in question, some convenient time before the trial, who then and there shall have the place in question shown to them by two persons in the said writs named, to be appointed by the court or judge; and the said sheriff or other minister who is to execute any such writ shall, by a special return upon the same, certify that the view hath been had according to the command of the same, and shall specify the names of the viewers.

Viewers, in ance, to be sworn upon the jury first.

XVII. That where a view shall be allowed in any case, those men case of appear- who shall have had the view, or such of them as shall appear upon the jury to try the issue, and shall not be challenged off, shall be first sworn; and so many only shall be added to the viewers who shall appear as shall, after all defaulters and challenges allowed, make up a full jury of twelve.

Jurors to be summoned six days before day of attendance.

XVIII. That the summons of every man to serve on any jury, common or special, in any of the courts aforesaid, shall be made by the proper officer six days at least before the day on which the juror is to attend, by showing to the man to be summoned, or in case he shall be absent from the usual place of his abode, by leaving with some person there inhabiting, a note, in writing under the hand of the sheriff, subsheriff, or other proper officer, containing the substance of such summons.

Names of jurors to clerk of judge of assize and ballotted for juries in civil courts.

XIX. That the name of each man who shall be summoned and imto be delivered panelled in any court of assize or nisi prius, with the place of his abode and addition, shall be written on a distinct piece of parchment or card, such pieces of parchment or card being all as nearly as may be of an equal size, and shall be delivered unto the clerk of the judge of assize or nisi prius who is to try the cause, by the under sheriff of the county, city, or town, or other officer returning the process, and shall, by direction and care of such clerk, be put together in a box to be provided for that purpose; and when any issue shall be brought on to be tried, such clerk shall in open court draw out twelve of the said parchments or cards one after another, after having shaken them together, or in cases where any view shall have been directed and had as aforesaid, so many as, together with the viewers who shall appear and be sworn, shall be sufficient to make up the number of twelve; and if any of the men whose names shall be so drawn shall not appear, or shall be challenged and set aside, then such further number until twelve men, or such other number as, together with such viewers so appearing and sworn as aforesaid, shall make up the number of twelve, be drawn, who shall appear, and who, after all just causes of challenge allowed, shall remain as fair and indifferent; and the said twelve men, their names being marked in the panel, and they being sworn, shall be the jury to try the issue; and the names of the men so drawn and sworn shall be kept apart by themselves until such jury shall have given in their verdict and the same shall be recorded, or until such jury shall, by the consent of the parties or by leave of the court, be discharged, and then the same names shall be returned to the box, there to be kept with the other names remaining at that time undrawn, and so totics quoties as long as any issue remains to be tried: Provided always, That if any issue shall be brought on to be tried in any of the said courts before the jury in any other issue shall have brought in their verdict or been discharged, it shall be lawful for the court to order twelve of the residue of the said parchments or cards, not containing the names of any of the jurors who shall not have so

brought in their verdict or been discharged, to be drawn in such manner

Where the jury have not brought in their verdict, twelve others to be

as aforesaid for the trial of the issue which shall be so brought on to be tried: Provided also, That where both parties shall consent thereto it 3 & 4 W. 4, shall be lawful for the court to try any issue with the same jury that shall have previously tried or been drawn to try any other issue, without their names being returned to the box and re-drawn, or to order the The same jury, name or names of any man or men on such jury whom both parties if consented to, may consent to withdraw, or who may be justly challenged or excused may try several by the court, to be set aside, and another name or other names to be drawn issues in sucfrom the box, and to try the issue with the residue of such original jury being re-drawn. and with such man or men whose name or names shall be so drawn, and who shall appear and be approved as indifferent, and so toties quoties as long as any issue remains to be tried.

XX. That if any man shall be returned as a juror for the trial of any Want of qualiissue in any of the courts herein-before mentioned, who shall not be fication in comqualified according to this act, the want of such qualification shall be mon jurors to good cause of challenge, and he shall be discharged upon such challenge, be cause of if the court shall be satisfied of the fact; and that if any man returned challenge. if the court shall be satisfied of the fact; and that if any man returned as a juror for the trial of any such issue shall be qualified in other respects according to this act, the want of freehold shall not be accepted as good cause of challenge, either by the crown or by the party, nor as a cause for discharging the man so returned upon his own application, any law, custom, or usage to the contrary notwithstanding; pro- Not to extend vided that nothing herein contained shall extend in anywise to any to special

special juror.

XXI. That no challenge shall be taken to any panel of jurors for want No challenges of a knight's being returned in such panel, nor any array quashed by for want of a reason of any such challenge; any law, custom, or usage to the contrary knight.

notwithstanding. XXII. That nothing in this act contained shall in anywise be con- Act not to strued or deemed to repeal, alter, or affect an act made in the first session affect Irish acts of the thirty-third year of the reign of his late Majesty king Henry the 33 H. 8, sess. 1, eighth, intituled An Act that Consanguinity or Affinity, being not within c. 4, & 7 W.3, the Fifth Degree, shall be no principal Challenge; or an act made in the c. 8, as to conparliament of Ireland, in the seventh year of the reign of king William the third, intituled An Act for Redress of Inconveniences for Want of

Proof of the Decease of Persons beyond the Seas or absenting themselves upon whose Lives Estates do depend.

XXIII. That it is and shall be lawful for his Majesty's courts of Court to have king's bench, common pleas, and exchequer in Ireland respectively, the power of upon motion made on behalf of the king, or upon the motion of any pro-ordering special secutor, relator, plaintiff, or demandant, or of any defendant or tenant, juries to be in any case whatsoever, whether civil or criminal, or on any penal statute, the proper excepting only indictments for treason or felony depending in any of the officer. said courts, and the said courts and judges respectively are hereby authorized in any of the cases before mentioned to order and appoint a special jury to be struck before the proper officer of each respective court, for the trial of any issue joined in any of the said cases and triable by a jury, in such manner as herein-after directed for the striking of special juries; and every jury so struck shall be the jury returned for the trial of such issue.

XXIV. That the sheriff of every county, city, and town respectively, What persons or his under sheriff, shall, within ten days from the delivery of the jurors shall be qualibook for the current year to either of them, take from such book the fied and liable names of all such persons as are sons of peers, and of all baronets, to serve on speknights, magistrates, and of persons who have served or been returned cial juries. to serve the office of sheriff or grand juror at the assizes, and of all bankers and wholesale merchants who do not exercise retail trades, and of all trades who are possessed of personal property of the value of five thousand pounds, and of the eldest sons of such persons respectively. and if such descriptions of persons shall not be so numerous as to furnish a competent number of persons out of whom a special jury may be formed, as herein-after provided, then a sufficient number of other per-

No. IV.

No. IV. 3 & 4 W.4. c. 91.

A list thereof to be made. and a number to be prefixed to each name. Numbers to written on separate cards and put into a box.

Officer of court to appoint the time and place for nominating special jury.

Under sheriff. attend officer with the special jurors list.

Officer to put all the numand to draw out forty-eight, and to check them with the numbers and names in the list;

and to deliver a list of the forty-eight names to each party, to be reduced as heretofore.

sons whose names are contained in the jurors book, consideration being had of the rank and property of such persons, and shall respectively cause the same to be fairly and truly copied out in alphabetical order, together with the respective places of abode and additions of such men in a separate list, to be subjoined to the jurors book, which list shall be called "The Special Jurors List," and shall prefix to every name in such list its proper number, beginning the numbers from the first name, and continuing them in a regular arithmetical series down to the last name, and shall cause the said several numbers to be written upon distinct pieces of parchment or card, being all, as nearly as may be, of equal size, and after all the said numbers shall have been so written, shall put the same together in a separate drawer or box, and shall there safely keep the same, to be used for the purpose herein-after mentioned.

XXV. That whenever any of the courts or judges above mentioned shall order a special jury to be struck before the proper officer of such court, such officer shall appoint a time and place for the nomination of such special jury; and a copy of the rule of court and of such officer's appointment shall be served on the sheriff or under sheriff of the county, city, or town in which the trial is to be had, and also on all the parties who have usually been served with the same respectively in the accustomed manner; and the said officer, at the time and place appointed, being attended by such sheriff or under sheriff or his agent, who are or his agent, to hereby respectively required to bring with them the jurors book and such special jurors list, or two copies thereof signed by such sheriff or under sheriff, and all the numbers so written on distinct pieces of parchment or card as aforesaid, shall, in the presence of all the parties in any of the cases aforesaid, and of their attornies, if they respectively choose to attend, or if the said parties or their attornies, all or any of them, do not attend, then in their absence, put all the said numbers into a box, to be by him provided for that purpose, and after having shaken them tobers into a box, gether shall draw out of the said box forty-eight of the said numbers, one after another, and shall, as each number is drawn, refer to the corresponding number in the special jurors lists, and read aloud the name designated by such number; and if at the time of so reading any name either party or his attorney shall object that the man whose name shall have been so referred to is in any manner incapacitated from serving on the said jury, and shall also then and there prove the same to the satisfaction of the said officer, such name shall be set aside, and the said officer shall instead thereof draw out of the said box another number, and shall in like manner refer to the corresponding number in the said list, and read aloud the name designated thereby, which name may be in like manner set aside, and other numbers and names shall in every such case be resorted to, according to the mode of proceeding herein-before described for the purpose of supplying names in the places of those set aside, until the whole number of forty-eight names not liable to be set aside shall be completed; and if in any case it shall so happen that the whole number of forty-eight names cannot be obtained from the special juror list, then and in that case the said officer shall fairly and indifferently take, according to the mode of nomination heretofore pursued in nominating special juries, such a number of names from the general jurors list as shall be required to make up the full number of forty eight names, all and every of which forty-eight names shall in such case be equally deemed and taken to be those of special jurors; and the said officer shall afterwards make out for each party a list of the forty-eight names, in the order in which they shall have been drawn as aforesaid, together with their respective places of ahode and additions, and after having made out such lists shall return all the numbers so drawn out, together with all the numbers remaining undrawn, to such sheriff or under sheriff, or his agent, to be by such sheriff or under sheriff safely and securely kept for future use; and all the subsequent proceedings for reducing the said list of forty-eight, and all other matters whatsoever relating to special juries, shall remain and continue in force as heretofore,

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except where the same or any part thereof is expressly altered by this act; and all the fees heretofore legally payable on the striking of special 3 & 4 W.4, juries shall continue to be paid in the accustomed manner.

XXVI. That nothing herein contained shall be construed to prevent the parties in any cause, or their attornies, from consenting to The parties

have a special jury nominated according to the mode used and ac-may, by concustomed before the passing of this act; and upon a consent to that sent, have a effect, signed by each party or his attorney, being communicated to special jury the proper officer, he is hereby authorized and required to nominate a struck accordspecial jury for the trial of every such cause according to the mode used ing to the anand accustomed before the passing of this act: Provided also, that cient mode. nothing herein contained shall be construed to prevent the same special The same spejury, however nominated, from trying any number of causes, so as the cial jury may, parties in every such cause, or their attornies, shall have signified their by consent, try assent in writing to the nomination of such special jury for the trial of any number of their respective causes, or shall consent thereto in open court: Provided also, that it shall be lawful for the court, if it shall so think fit, upon the Court may disapplication of any man who shall have served upon one special jury or charge any one more at any assizes or sessions of nisi prius, to discharge such man from serving upon any other special jury during the same assizes or session assizes. of hisi prius.

XXVII. That the person or party who shall apply for a special jury Costs of special, shall pay the fees for striking such jury, and all the expences occasioned Jury. by the trial of the cause by the same, and shall not have any further or other allowance for the same, upon taxation of costs, than such person or party would be entitled unto in case the cause had been tried by a common jury, unless the judge before whom the cause is tried shall immediately after the trial certify under his hand upon the back of the record that the same was a cause proper to be tried by a special jury.

XXVIII. That where a full jury shall not appear before any court of Tales de cirassize or nisi prius in any criminal prosecution properly triable in such cumstantibus. court, or in any suit or action, or where, after appearance of a full jury, by challenge of any of the parties the jury is likely to remain untaken for default of jurors, every such court, upon request made for the king by any one thereto authorized or assigned by the court in cases of such criminal prosecutions as aforesaid, or on request made by the parties, plaintiff or demandant, defendant or tenant, or their respective attornies in any action or suit, whether popular or private, shall command the sheriff or other minister to whom the making or the return shall belong to name and appoint, as often as need shall require, twelve other able men of the county, city, or town, then present, and the sheriff or other minister aforesaid shall at such command of the court return twelve such men duly qualified, who shall be present or can be found to serve on such jury, and shall add and annex their names to the former panel; provided that where a special jury shall have been struck for the trial of any issue, the talesman shall be such as shall be impanelled upon the common jury panel to serve at the same court, if a sufficient number of such men can be found; and the names of the persons so to be named, with their additions and places of abode, shall be written on several distinct pieces of parchment or cards, being all as near as may be of equal size, and shall be delivered to the clerk of the judge before whom such issue is to be tried by the sheriff or other officer to whom the returning of such jury shall belong, and shall, by the direction and care of such clerk be rolled up all as near as may be in the same manner, and put together in a box or drawer and shaken together, and some indifferent person by direction of the court, in open court, shall draw out such pieces of parchment or card one after another, until a number shall appear which shall be sufficient, with those of the original panel who appear, to make up the number of twelve, who shall be the jury to try the said issue; and the king, by any one so authorized or assigned as aforesaid, and all and every the parties aforesaid, shall and may in each of the cases aforesaid respectively have their respective challenges to the jurors so added and

No. 1V.

who has served

No. V. c. 91. Fine on jurors making default, 101.

Sheriff indeming any per-on whose name is in the list.

If he returns one not in the list, or if the clerk of assize records appearparty did not appear, to be fined.

No money to be taken to from serving.

None to be summoned but the warrant.

Penalties on collectors for neglecting to make out liste, &c.

XXXII. That if any man, having been duly summoned to attend on 3 & 4 W 4, any kind of jury in any of the courts in this act mentioned, shall not attend in pursuance of such summons, or being thrice called shall not answer to his name, or if any such man, or any talesman, after having been called, shall be present but not appear, or after his appearance shall wilfully withdraw himself from the presence of the court, the court shall set such fine upon every such man or talesman so making default (unless some reasonable excuse shall be proved by oath or affidavit) as the court shall think meet: Provided always, that where any viewer, having been duly summoned to attend on any jury, shall make default as aforesaid, the court is hereby authorized and required to set upon such viewer (unless some reasonable excuse shall be proved as aforesaid) a fine to the amount of ten pounds at the least, and as much more as the court, under the circumstances of the particular case, shall think proper.

XXXIII. That every sheriff and other minister to whom the return of nified in return- juries shall belong shall be and is hereby indemnified for impanelling and returning any man named in the jurors book, although he may not be qualified or liable to serve on juries; and that if any sheriff or other such minister shall wilfully impanel and return any man to serve on any jury before any of the courts herein-before mentioned, (except on the grand jury at any assizes or sessions,) such man's name not being inserted in the jurors book for the current year, or if such book has not been delivered, then in the jurors book last delivered, or if any prothonotary, ances when the judge's clerk, clerk of the peace, town clerk, or other officer of any of the courts in this act mentioned, shall wilfully record the appearance of any man so summoned and returned who did not really appear, in every such case the court shall, upon examination in a summary way, set such fine upon such sheriff, minister, prothonotary, judge's clerk, clerk of the

peace, or other officer offending, as the court shall think meet.

XXXIV. That no sheriff, under sheriff, coroner, elisor, bailiff, or other officer or person whatsoever, shall directly or indirectly take or excuse persons receive any money or other reward, or promise of money or reward, or any consideration whatsoever, or the promise of any consideration, to excuse any man from serving or from being summoned to serve on juries or under any such colour or pretence; and that no bailiff or other officer appointed by any sheriff, under sheriff, coroner, or elisor, to summon those named in juries, shall summons any man to serve thereon, other than those whose names are specified in a warrant or mandate signed by such sheriff, under sheriff, coroner, or elisor, and directed to such bailiff or other officer; and if any sheriff, under sheriff, coroner, elisor, bailiff, or other officer shall wilfully transgress in any of the cases aforesaid, or shall neglect to summon any juror, or shall summon any juror less than four days before the day on which he is to attend, except in the cases herein-before excepted, the court of assize, nisi prius, over and terminer, gaol delivery, or court of sessions of the peace within whose jurisdiction the offence shall have been committed, may and is hereby required, on examination and proof of such offence, in a summary way to set such a fine upon every person so offending as the court shall think meet, according to the nature of the offence.

XXXV. That if any such high constable or collector as aforesaid shall refuse or neglect (unless prevented by sickness) to make out or assist in making out any list required by this act, so that the same shall not be made out at the time and in the manner herein-before directed, or shall wilfully omit out of such list any man whose name ought to be inserted therein, or shall wilfully insert therein the name of any man who ought to be omitted, or shall take any money or other reward, or promise of money or reward, or other consideration, for omitting or inserting any man whatsoever, or shall wilfully insert therein a wrong description of the name, place of abode, title, quality, calling, business, or the nature of the qualification of any man; or shall refuse or wilfully neglect, in case the number of forms of returns delivered by the clerk of the peace shall be insufficient, to apply to the clerk of the peace for a sufficient

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number, so that the list may be made out at the time and in the manner herein-before directed; or shall refuse to allow any inhabitant of their 3 & 4 W. 4. respective districts to inspect such list, or a true copy thereof, gratis, at any reasonable time during the three weeks herein-before mentioned; or shall on due notice refuse or wilfully neglect to produce such list at such sessions as aforesaid, or to answer on oath such questions touching the same as shall there be put, or to attend at such sessions or any such adjournment thereof as aforesaid; every such person offending in any of the foregoing cases shall for every such offence forfeit a sum not exceeding fifty pounds nor less than forty shillings, at the discretion of the justice before whom he shall be convicted; and the justice before whom such offender shall be convicted of any such offence of wrongful insertion or omission shall forthwith, in writing under his hand, certify the same to the clerk of the peace of the county, city, or town in which the man or men so wrongfully omitted or inserted shall reside; and the said clerk of the peace shall cause the list in which such wrongful insertion or omission shall have occurred to be corrected according to such certificate, and shall also give notice thereof to the sheriff or under sheriff, who shall correct the jurors book accordingly.

XXXVI. That if any clerk of the peace or town clerk shall refuse or clerks of peace, wilfully neglect to cause a sufficient number, either of precepts or forms town clerks. of return, to be printed in the manner herein-before directed, or shall and sheriffs refuse or wilfully neglect to issue and deliver to any collector within the neglecting their meaning of this act the precepts as herein-before directed, or to annex duty. to the same such a number of the forms of return as he shall bond fide deem sufficient, or to deliver to any high constable or collector such additional number thereof as he may apply for within three days after such application; or shall refuse or wilfully neglect to provide or prepare a jurors book within the time or in the manner and form hereinbefore prescribed, or to deliver the same to the sheriff or under sheriff within the time herein-before prescribed, or to give notice to the sheriff or under sheriff of any wrongful insertion or omission certified to him by any justice of the peace as aforesaid; or if any sheriff or under sheriff shall make or cause to be made any alteration whatsoever in the list of jurors contained in the jurors book, except in the cases herein-before provided for; or if any sheriff or under sheriff of a county shall wilfully neglect or refuse to provide or prepare a list of special jurors in the manner and within the time herein-before prescribed, or shall wilfully write or cause to be written therein the name of any person not qualified, or shall wilfully omit thereout the name of any person duly qualified as a special juror, or shall neglect or refuse to write or cause to be written the several numbers contained in such list upon distinct pieces of parchment or card, in the manner and within the time hereinbefore prescribed, or shall subtract or destroy, or by any default or neglect lose, any of the said pieces of parchment or card, or shall wilfully neglect or refuse, upon discovery of such loss, to supply the same within five days; or if any sheriff or under sheriff shall refuse or wilfully neglect, within ten days after the next succeeding sheriff shall have entered upon office, to deliver over to him, as well all the jurors books and lists which shall be made or prepared in the year of his sheriffalty, as also such other like books and lists as were prepared in the sheriffalty of any of his predecessors, within four years then next preceding, and which were delivered over to him by any of his predecessors; every such clerk of the peace, sheriff or under sheriff, offending in any of the said cases, shall for every such offence forfeit the sum of one hundred pounds, one moiety whereof shall be to the use of his Majesty, his heirs or successors, and the other moiety, with full costs, to such person as

No. V. c. 91.

XXXVII. Provided always, That nothing herein contained shall Juries de meextend or be construed to extend to deprive any alien, indicted or im-dietate lingua.

shall sue for the same, in any of his Majesty's courts of record at Dublin, by action of debt, bill, plaint, or information, wherein no essoign, protection, or wager of law, nor more than one imparlance, shall be allowed. No. V.

peached of any felony or misdemeanor, of the right of being tried by a 3 & 4 W. 4, jury de medietate linguæ, but that on the prayer of every alien so indicted or impeached the sheriff or other proper minister shall, by command of the court, return for one half of the jury a competent number of aliens, if so many there be in the town or place where the trial is had, and if not, then so many aliens as shall be found in the same town or place, if any; and that no such alien juror shall be liable to be challenged for want of freehold or of any other qualification required by this act, but every such alien may be challenged for any other cause, in like manner as if he were qualified by this act. XXXVIII. That no justice of the peace shall be summoned or im-

panelled as a juror to serve at any sessions of the peace for the jurisdic-

tion of which he is a justice.

Justices not to be summoned as jurors.

Persons qualified to serve in to be returned to serve on capital offences; but if sworn, not afterwards to be objected

to.

XXXIX. That no man shall be impannelled or returned to serve on any jury for the trial of any capital offence in any county, city, or town, civil causes not who shall not be qualified to serve as a juror in civil causes within the same county, city, or town; and the same matter and cause being alleged by way of challenge, and so found, shall be admitted and taken as a principal challenge, and the person so challenged shall and may be examined on oath of the truth of the said matter; provided that if it shall happen that any such person, not qualified as last aforesaid, shall have been impannelled on any such jury, and shall be sworn to try the issue in such case as last aforesaid, without any challenge having been

> taken in due time for the cause aforesaid, no objection shall ever afterwards be admitted or taken for the want of such qualification.

Qualification of jurors on writs of inquiry, &c.

Exception for coroners inquests.

XL. That no man shall be summoned or impannelled to serve as a juror in any county, city, or town in Ireland upon any inquest or inquiry to be taken or made by or before any sheriff or coroner by virtue of any writ of inquiry, or by or before any commissioners appointed under the great seal or the seal of the court of exchequer, who shall not be duly qualified according to this act to serve as a juror upon trials at nisi prius in such county, city, or town: Provided always, that nothing herein contained shall extend to any inquest of the death of any person to be taken by or before any coroner by virtue of his office, or to any inquest or inquiry to be taken or made by or before any sheriff or coroner of any liberty, franchise, city, borough, or town corporate, not being counties; but that the sheriffs and coroners in all such cases to which this act doth not extend as aforesaid shall and may respectively take and make all inquests and inquiries by jurors of the same description as they have been used and accustomed to do before the passing of this

Sheriffs, coroners, and commissioners may fine jurors for non-altendance.

XLI. That if any man having been duly summoned and returned to serve as a juror in any county, city, or town in Ireland, upon any inquest or inquiry before any sheriff or coroner by virtue of any writ of inquiry, or before any of the commissioners aforesaid, shall not, after being openly called three times, appear and serve as such juror, every such sheriff, or, in his absence, the under sheriff, and such coroner and commissioners respectively, are hereby authorized and required, unless some reasonable excuse shall be proved on oath or affidavit, to impose such fine upon every man so making default as they shall respectivety think fit, not exceeding five pounds; and every such sheriff, under sheriff, coroner, and commissioners respectively shall make out and sign a certificate, containing the christian and surname, the residence and trade or calling of every man so making default, together with the amount of the fine imposed, and the cause of such fine, and shall transmit such certificate to the clerk of the peace or town clerk for Fines to be in- the place in which every such defaulter shall reside on or before the first rolled by clerk day of the quarter session next ensuing; and every such clerk of the peace and town clerk is hereby required to copy the fines so certified on the roll on which all fines and forfeitures imposed at such quarter sesfines imposed at sions shall be copied; and the same shall be estreated, levied, and applied in like manner, and subject to the like powers, provisions, and

of the peace. and levied as quarter & ssions.

No.V.

3 & 4 W. 4,

c. 91.

be recovered

penalties, in all respects, as if they had been part of the fines imposed

at such quarter sessions.

XLII. That all fines to be imposed under this act by any of the king's courts of record at Dublin, or by any court of assize, nisi prius, oyer and terminer, or gaol delivery, or any court of the sessions of the peace How fines and in Ireland, shall be levied and applied in the same manner as any other penalties are to fines imposed by the same court; and that all other penalties hereby and applied. created (for which no other remedy is given) shall, on conviction of the offender before any one justice of the peace within the jurisdiction, be levied, unless such penalty be forthwith paid, by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of such justice, who is hereby authorized to hear and examine witnesses on oath or affirmation on any complaint, and to determine the same, and to mitigate the penalty, if he shall see fit, to the extent of one moiety thereof; and all penalties the application whereof is not herein-before particularly directed shall be paid to the complainant; and for want of sufficient distress the offender shall be committed, by warrant under the hand and seal of such justice, to the common giol or house of correction for such term not exceeding six calendar months as such justice shall think proper, unless such penalty be sooner paid.

XLIII. And for the more easy and speedy conviction of offenders Form of conagainst this act, be it further enacted, That the justice before whom any viction. person shall be convicted of any offence against this act shall and may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall happen;

videlicet.

BE it remembered, That on

in the year of A. B. is con-

our Lord ' victed before me C. D., one of his Majesty's justices of the peace for ' the for that he the said A. B.

.' did [specifying the offence and the time and place where the same was ' committed, as the case shall be]; and the said A. B. is for his said ' offence adjudged by me the said justice to forfeit and pay the sum of

> ' Given under my hand and seal, the day and year first above mentioned.

XLIV. That no such conviction shall be quashed for want of form, Conviction not or be removed or removeable by certiorari, or by any other writ or pro- to be quashed cess whatsoever, into any of his Majesty's courts of record at Dublin; for want of and that where any distress shall be made for any penalty to be levied form. by virtue of this act, the distress itself shall not be deemed to be unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceedings relating thereto; nor shall such party be deemed a trespasser ab initio on account of any irregularity which shall be afterwards done by him, but the person aggrieved by such irregularity shall and may recover full satisfaction for the special damage (if any) in an action upon the case, first giving notice in writing of the cause of action to the opposite party one calendar month before the commencement of such action; but no plaintiff shall recover in any action for such irregularity if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money to satisfy the damages and costs up to that time shall have been paid into court after such action brought, by or on behalf of the party distraining.

XLV. That if any suit or action shall be prosecuted against any per-Persons sued son for any thing done in pursuance of this act, such person may plead for any thing the general issue, and give this act and the special matter in evidence done in pursuat any trial to be had thereupon, or in replevin may avow generally that ance of this act the goods in question were taken under and by virtue of this act; and may plead the general issue.

No. V. 3 & 4 W.4, c. 91.

if a verdict shall pass for the defendant or avowant, or the plaintiff shall become nonsuited, or discontinue his or her action after issue joined, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant or avowant shall recover double costs, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be shall certify his approbation of the action, and of the verdict obtained thereon.

Venue to be laid in the county where the fact is committed.

XLVI. That all actions, suits, and prosecutions to be commenced against any person for any thing done in pursuance of this act shall be laid and tried in the county where the fact was committed, unless where the defendant or avowant in such action shall be the sheriff or under sheriff or other person having the return of jury process in such county, in which case it may, at the option of the plaintiff, be laid and tried in any next adjoining county; and every such action, suit, and prosecution shall be commenced within six calendar months after the fact committed, and not otherwise; and that notice in writing of such cause of action shall be given to the defendant or defendents, or avowant or avowants, one calendar month at least before the commencement of the action.

Writs of attaint. ries abolished.

XLVII. That from and after the passing of this act it shall not be &c. against ju- lawful, either for the king or any one on his behalf, or for any party or parties in any case whatsoever, to commence or prosecute any writ of attaint against any jury or jurors for the verdict by them given, or against the party or parties who shall have judgment upon such verdict; and that no inquest shall be taken to inquire of the concealments of other inquests, but that all such attaints and inquests shall henceforth cease, become void, and utterly abolished; any law, statute, or usage to the contrary notwithstanding.

Embracery and corrupt jurors punishable by fine and imprisonment.

XLVIII. Provided always, and be it enacted and declared, That notwithstanding any thing herein contained, every person who shall be guilty of the offence of embracery, and every juror who shall wilfully or corruptly consent thereto, shall and may be respectively proceeded against by indictment or information, and be punished by fine and imprisonment, in like manner as every such person and juror might have been before the passing of this act.

Commencement of act.

XLIX. That those parts of this act which relate to the issuing of warrants and precepts for the return of jury lists, the preparation, production, reformation, and allowance of those lists, the holding of sessions for those purposes, the formation of a jurors book, and the delivery thereof to the sheriff, and the preparation of a list of special jurors, and of parchment or cards, in the manner heretofore mentioned, shall commence and take effect so soon after the passing of this act as the proper periods for doing those things shall occur; and that the rest of this act shall commence and take effect on the first day of January in the year one thousand eight hundred and thirty-four.

Repeal of anland; viz. 43 H. 3,

L. That from and after the commencement of the several parts of this act, the several statutes and acts, and parts of statutes and acts, hereintending to Ire- after mentioned, so far as the same relate to Ireland, shall be repealed; (that is to say,) so much of the provisions made in the forty-third year of the reign of king Henry the third as relates to exemptions from assizes, juries, and inquests; and so much of a statute made in the fifty-52 H. 3, c. 14. second year of the same reign as relates to the like exemptions; and

c. 24. so much of the same statute as provides that all, being twelve years of age, ought to appear at inquests for the death of man; and so much

13 E. 1, c. 30. of a statute made at Westminster in the thirteenth year of the reign of king Edward the first as directs that the justices shall not put in assizes or juries any other than those that were first summoned to the same at

c. 38. first; and so much of the same statute as ordains how many and what sort of persons shall be returned on juries and petty assises; and a 21 E. 1, st. 1. statute made in the twenty-first year of the same reign, intituled

Statutum de illis qui debent poni in Juratis et Assizis; and so much of a No. V. statute made in the twenty-eighth year of the same reign, intituled 3 & 4 W.4, Articuli super Cartas, as directs that the jurors shall be of the next neighbours; and an ordinance made in the thirty-third year of the same reign, commonly called An Ordinance for Inquests; and so much of a 28 E. 1, st. 3, statute made in the thirty-fourth year of the same reign, commonly c. 9. called Ordinatio Forestæ, as enjoins that none of the ministers therein 33 E. 1, st. 4. mentioned be put in assizes, juries, or inquests without the forest; and 34 E. 1, st. 5, so much of a statute made in the fifth year of the reign of king Edward c.8. the third as relates to the punishment of a corrupt juror; and so much 5 E. 3, c. 10. of a statute made in the twentieth year of the same reign as relates to 20 E. 3, c. 6. the punishment of embracers and corrupt jurors; and so much of a statute or ordinance made in the twenty-seventh year of the same reign, 27 E. 3, st. 2, commonly called The Ordinance of the Staples, as prescribes the mode c. 8. of trial where one party or both parties are aliens; and so much of a statute made in the twenty-eighth year of the same reign as directs that 28 E. 3, c. 13. all manner of inquests and process shall be taken between aliens and denizens; and so much of a statute made in the thirty-fourth year of 34 E.3, c. 4. the same reign as accords that panels of inquests shall be of the neighbourhood; and so much thereof as directs the proceedings against c. 8. jurors taking a reward to give their verdict; and so much thereof as c. 13. relates to the qualification of jurors on inquests of escheat; and so much of a statute made in the thirty-sixth year of the same reign as relates 36 E. 3, st. 1, to jurors on inquests of escheat; and so much of the first statute made c. 13. in the thirty-eighth year of the same reign as ordains the penalty on 38 E. 3, c. 12. corrupt jurors and embracers; and so much of a statute made in the forty-second year of the same reign as directs that panels in assizes 42 E. 3, c. 11. shall be arrayed four days before the sessions, and that the jurors therein shall be those that have the best knowledge of the truth, and be nearest; and so much of a statute made in the seventh year of the reign 7 R. 2, c. 7. of king Richard the second as relates to granting a writ of nisi prius at the suit of any jurors; and so much of a statute made in the eleventh 11 H. 4, c. 9. year of the reign of king Henry the fourth as directs that jurors in indictments shall be returned by the sheriffs or bailiffs without the denomination of any; and so much of the second statute made in the second 2 H. 5, st. 2, year of the reign of king Henry the fifth as relates to the qualifications c. 3. of jurors; and so much of a statute made in the sixth year of the reign 6 H. 6, c. 2. of king Henry the sixth as relates to the panels in special assizes; and so much of a statute made in the eighth year of the same reign as relates 8 H. 6, c. 29. to inquests and proofs taken between aliens and denizens; and so much of a statute made in the twenty-third year of the same reign as ordains 23 H. 6, c. 9. that no sheriff or under sheriff shall return any of their officers or servants in any of the cases therein mentioned; and an act passed in the first year of the reign of king Richard the third, intituled An Act for re- 1 R. 3, c. 4. turning sufficient Jurors; and that the several acts and parts of acts Repeal of acts passed in the parliament of Ireland, and herein-after mentioned, shall made in the also be repealed; (that is to say,) an act passed in the seventh year of parliaments of the reign of king Henry the sixth, intituled An Act for the Additions of Ireland; viz. Jurors; and also an act passed in the thirteenth year of the reign of king 7 H. 6, c. 1. Henry the eighth, intituled An Act touching Jurors to pass in Attaint; 13 H. 8, c. 3. and also an act passed in the second session of the tenth year of the 10 C. 1; st. 2, reign of king Charles the first, intituled An Act concerning the Appear- c. 13. ance of Jurors in the Nisi Prius; and also an act passed in the tenth and 10 & 11 C. 1, eleventh years of the same reign, intituled An Act for the limiting of c.9. peremptory Challenges in Cases of Treason and Felonies, and so forth; and so much of an act passed in the sixth year of the reign of queen 6 Anne. c. 10, Anne, intituled An Act for the Amendment of the Law, and the better Ad- 8. 6. 7. 8. vancement of Justice, as relates to write of venire facias, and to jurors having the view; and also so much of an act passed in the sixth year of 6 Geo. 1, c. 5, the reign of king George the first, intituled An Act for exempting the s. 11. Protestant Dissenters of this Kingdom from certain Penalties to which they are now subject, as relates to exemptions from serving upon juries; and

c. 91. 12 G. 1, c. 4, s. 16. 29 G. 2, c. 6. 13 & 14 G.3. c. 41, s. 1.

No. V,

17 & 18 G. 3, c. 45, s. 3 to s. 10.

23 & 24 G.3, c. 17, s. 35.

s. 4.

26 G. 3, c. 14, **8.71.**

s. 35.

Repeal of act of united parc. 51, s. 1.

Not to affect act relating to Quakers;

nor any powers unrepealed;

[Part IV. Juries and Trials. also so much of an act passed in the twelfth year of the same reign, in-3 & 4 W. 4, tituled An Act for the better regulating the Office of Sheriffs, and for the ascertaining their Fees, and the Fees for suing out their Patents, and passing their Accounts, as relates to the impanelling or return of juries; and also an act passed in the twenty-ninth year of the reign of king George the Second intituled An Act for better regulating Juries, so far as the same relates to counties at large; and also so much of an act passed in the thirteenth and fourteenth years of the reign of king George the third, intituled An Act for reviving and continuing several temporary Statutes, and to prevent the destructive Practice of trawling Fish in the Bay of Dublin, as revives or continues the said act of the twenty-ninth year of king George the Second; and also so much of an act passed in the seventeenth and eighteenth years of the reign of king George the third, intituled An Act for the Amendment of the Law with respect to Outlawries, returning Special Juries, and the future Effects of Bankrupts in certain Cases, as in anywise relates to special juries for trials in counties at large; and also so much of an act passed in the twenty-third and twenty-fourth years of the reign of king George the third, intituled An Act for establishing a Post Office within this Kingdom, as relates to any exemption from serving upon any jury or inquest; and also an act 25 G. 3, c. 31. passed in the twenty-fifth year of the same reign, intituled An Act to take away the Challenge to the Array of Panels of Jurors for Want of a Knight on Trials which a Peer or Lord of Parliament is a Party; and 34 G. 3, c. 23, also so much of an act passed in the thirty-fourth year of the same reign, intituled An Act for reviving and continuing certain temporary Statutes, as revives and makes perpetual the said act of the twenty-fifth year of the same reign; and also so much of an act passed in the twentysixth year of the same reign, intituled An Act for making, widening, and repairing public Roads in the County of Dublin, and for repealing Parts of several Acts formerly made for that Purpose, as provides that any treasurer, inspector of the accounts, secretary of the grand jury, or collector of any barony, shall not be returned upon any panel for any jury in the 35 G. 3, c. 28, county of Dublin; and also so much of an act passed in the thirty-fifth year of the same reign, intituled An Act for the better Regulation of the Receipts and Issues of his Majesty's Treasury, and for repealing an Act of Parliament passed in the Tenth Year of Henry the Seventh, intituled ' An Act authorizing the Treasurer to make all Officers us the Treasurer of England doth,' as relates to any exemption from serving upon any jury; and that so much of an act passed in the parliament of the united kingdom of Great Britain and Ireland in the sixth year of the reign of his liament, 6 G. 4, late Majesty, intituled An Act for the Amendment of the Laws with respect to Special Juries, and to Trials in Counties of Cities and Towns and Towns Corporate in Ireland, as relates to special juries in any indictments or informations tried in any county at large in Ireland, shall also be repealed; and the said several herein-before recited statutes and acts, and parts of statutes and acts, are hereby severally and respectively repealed accordingly, save only so far as the same or any of them repeals or repeal any other acts or parts of acts, and save only as far as any of them direct that the sheriff, sub-sheriff, or other returning officer, shall return upon panels, when so required by writ of venire facias or other precept, such persons as shall be most sufficient, substantial, and worthy of credit, and not suspect: Provided always, that nothing herein contained shall be construed to affect or alter any part of an act passed in the parliament of Ireland in the nineteenth year of the reign of king George the Second, intituled An Act for accepting the solemn Affirmation or Declaration of the People called Quakers, instead of an oath in the usual Form: Provided also, that nothing herein contained shall extend or be construed to extend to alter, abridge, or affect any power or authority which any court or judge now hath, or any practice or form in regard to trials by jury, jury process, juries or jurors, except in those cases only where any such power or authority, practice or form, is repealed or

altered by this act, or is or shall be inconsistent with any of the provi-

sions thereof, nor to abridge or affect any privilege of parliament: Provided also, that nothing herein contained shall extend to or in any manner affect any jurors or juries in any matter or cause to be heard or tried by civil bill before any assistant barrister in Ireland, but that all such matters and causes may be heard and tried as before the passing of nor juries on this act.

No. V. 3 & 4 W. 4, c. 91. civil bills before assistant barristers.

SCHEDULE (A.)

PRECEPT FOR RETURNING LISTS OF JURORS.

[or To the High Constable and Collector of Grand County of County of the City (Jury Cess [or A. B. one of the Collectors of or County wn of ... Grand Jury Cess] in the Barony [or Half Barony, or District, &c. in the said County of the Town of [City or Town].

YOU are hereby required, within one month from the date hereof, to make out a true list in writing, in the form hereunto annexed, containing the names of all men, being natural-born subjects of the king, between the ages of twenty-one and sixty, residing within your district of collection, qualified to serve upon juries; (that is to say,) of every such man who has in his own name or in trust for him a clear income of ten pounds by the year in lands or tenements situate in the said county [city or town], or in rents issuing out of any such lands or tenements, or in such lands, tenements, and rents taken together, in fee simple or fee tail, or for his own life, or for the life of any other person; and also of every such man who has a clear income of fifteen pounds by the year in lands or tenements situate in the said county [city or town], held by lease, originally made for an absolute term of twenty-one years or more, whether the same be or be not determinable on any life or lives; and also of any resident merchant, freeman, and householder having a house and tenement in any city, town, or borough situate within the said county, of the clear yearly value of twenty pounds, such city, town, or borough not being a county of itself; [and if in any city or town, add, (and also of every resident merchant, freeman, and householder having lands or tenements or personal estate of the value of one hundred pounds;)] and you are required to make out the said list in alphabetical order, and to write the christian and surname of every man at full length, and the place of his abode, his title, quality, calling, or business, and the nature of his qualification, in the proper columns of the forms hereunto annexed, according to the specimens given in such columns for your guidance; and if you have not a sufficient number of forms, you must apply to me for more; and in making such lists you are to omit the names of all peers, all judges, all clergymen, all Roman Catholic priests, all ministers of any religious congregation; all serjeants and barristers at law, all assistant barristers, all advocates in ecclesiastical courts or in courts of the civil law, if actually practising; and all attorneys, solicitors, and proctors, if actually practising, and having taken out their annual certificates; all officers of the courts of law and equity, and of the admiralty and ecclesiastical courts, and courts of the civil law, and of all courts of criminal jurisdiction, if actually exercising the duties of their respective offices; all public notaries, all coroners, all gaolers and keepers of the houses of correction; all members and licentiates of the king and queen's college of physicians in Ireland, and all other physicians, all members of the royal colleges of surgeons in London, Edinburgh, and Dublin, and apothecaries certificated by the court of examiners of the governor and company of the apothecaries hall of the city of Dublin, if actually practising as physicians, surgeons, or apothecaries respectively; all the officers of the navy and army on full pay; all officers of customs and excise; all sheriffs officers, police conNo. V.

stables, and parish clerks; all persons employed or acting in the service 3 & 4 W. 4, of his Majesty's post office; all treasurers, and secretaries of grand juries; and also all persons exempt by virtue of any prescription, charter, grant, or writ: And when you have made out such list you are authorized to order a sufficient number of copies thereof to be printed, (the expence of which printing will be allowed you by the county,) and you are required, within one month from the date hereof, to deliver a true copy of such list to the clerk of the peace of the county of every county of a city or county of a town within the said county, and to attend the justices at any special sessions to be held for the purpose of examining the lists, of the time and place of holding which you shall be previously informed, and there to answer on oath such questions as shall be put to you by his Majesty's justices of the peace there present touching the said lists: And these several matters you are in nowise to omit, upon the peril that may ensue.

Given under my hand, at the day of

in the said county, in the year

Clerk of the peace for the said or town |.

county city,

SCHEDULE (B.)

FORM OF RETURN OF JURORS.

County of [or County of the City of County of the Town of

The Return of the High Constable and of the Collector of the Grand Jury Cess of the District of in the County [City or Town] of

MEN QUALIFIED TO SERVE ON JURIES.

Christian and Surnames in alphabetical Order of Surnames.	Barony, District, and Place in which the Men live.	Title, Quality, Calling, or Business.	Qualification, whether Freehold or Leasehold, Merchant, Freeman, or Householder.
			•

[No. VI.] 4 W. IV. c. 8.—An Act to amend an Act passed in the last Session, for consolidating and amending the Laws relative to Jurors and Juries in Ireland.

[26th March 1834.]

WHEREAS by an act passed in the last session of parliament, intituled An Act for consolidating and amending the Laws relative to Jurors and 3 & 4 W. 4, Juries in Ireland, it is amongst other things enacted, that the justices c. 91. assembled at every October general or quarter sessions of the peace to he holden in each division of each county at large, and the justices for and in each county of a city and county of a town, in Ireland, shall, at a sessions to be holden at October in every year, fix a place within such division and within such counties of cities and counties of towns respectively, and also a time not less than two nor more than three calendar months after the first day of such general or quarter sessions, for holding a special sessions, for the purpose of examining the lists of jurors in the said act mentioned, pursuant to the provisions thereof therein-after contained: And whereas the periods so prescribed for the holding of such special sessions have been found inconvenient, by reason of their approaching so nearly to the end of the current year as not to leave convenient time for the making out of the jurors book for the next ensuing year, and it is therefore expedient to alter the same; be it therefore enacted, &c. That the justices assembled at any October general or quarter sessions Justices to fix a of the peace to be holden in each division of each county at large and place and time each county of a city and county of a town in Ireland shall fix a place for examining within such cities and counties of towns respectively, and also a time, lists of jurors. not less than one lunar month nor more than six weeks after the first day of such October general or quarter sessions, for holding a special sessions for the purpose of examining the list of jurors, as by the said act directed; and that the several provisions and clauses of the said recited act relating to the special sessions thereby directed to be fixed at the October sessions shall be extended and applied to and be in force with respect to the special sessions hereby required to be fixed.

II. And whereas, in consequence of the difficulty which in certain Where jurors instances has been found to exist since the passing of the said recited book is not act in making up the list of jurors before the first day of January in the completed, the present year, the jurors book by the said act prescribed has not been return of jurors made up in sufficient time to be delivered to the sheriff or other proper according to officer, so as to be brought into use on the said first day of January, as the form in use is by the said recited act provided, and jurors have therefore in those before the recases been necessarily returned and impanelled in the mode usually cited act to be practised before the passing of the said recited act. And whereas it is deemed lawful. practised before the passing of the said recited act: And whereas it is expedient to prevent any doubts with respect to the validity of such proceedings; be it therefore declared and enacted, That where, in any county, county of a city, or county of a town in Ireland, the said jurors book shall not have been delivered to the sheriff or other proper officer before the said first day of January in this present year, the returning and impanelling of jurors in like manner as was used and accustomed before the passing of the said recited act shall be and be considered to have been lawful, and that all returns and panels of jurors in such cases heretofore made, or hereafter, until the completion and delivery of a proper jurors book, to be made, have been, are, and shall, and shall be deemed and taken to be and to have been, to all intents and purposes, equally good, valid, regular, effectual, and binding in law as if the said recited act had not passed.

[No. VII.] 4 & 5 W. IV. c. 47.—An Act for preventing the Interference of the Spring Assizes with the April Quarter [13th August 1834.] Sessions.

1 W. 4, c. 70.

WHEREAS by an act passed in the first year of the reign of his present Majesty, intituled An Act for the more effectual Administration of Justice in England and Wales, it is directed, that the justices of the peace in every county, riding, or division for which quarter sessions of the peace ought by law to be held shall hold their general quarter sessions of the peace (among other times) in the first week after the twentyeighth day of December and in the first week after the thirty-first day of March: And whereas in some counties of England and Wales the time usually fixed for holding the spring assizes interferes with the due holding of the last-mentioned quarter sessions; and although the justices of the peace have authority to hold general sessions of the peace at other times of the year besides those specified in the said recited act, such sessions are not quarter sessions within the intent of various acts of parliament which give jurisdiction to justices of the peace in their quarter sessions or in their general quarter sessions; and for the purpose of preventing the inconvenience arising from such interference as aforesaid it is expedient to allow to the justices of the peace a discretion as to the time of holding their general quarter sessions, which they are now required to hold in the week next after the thirty-first day of March: Be it therefore declared and enacted by, &c., That in every county, riding, or division for which general quarter sessions ought to be held it shall be lawful for the justices asssembled in their general quarter sessions in the week next after the twenty-eighth day of December in every year to name (if they shall see occasion so to do) two justices of the peace who shall be empowered, as soon as may be after the time for holding the spring assizes shall be appointed, to fix the day for holding the next general quarter sessions of the peace for such county, riding, or division, so as such time shall not be earlier than the seventh day of March nor later than the twenty-second day of April, and to give notice of the day so fixed by advertisement in such newspapers as shall be directed by the justices so assembled; and in every such case the general quarter sessions held on the day so fixed and notified shall be valid, and it shall not be necessary to hold any sessions of the peace for such county, riding, or division in the week next after the thirty-first day of March, any thing in the said recited act to the contrary notwithstanding: Provided always, That in every county, riding, and division where no other day shall be fixed in the manner herein-before mentioned, the justices of the peace shall hold their general quarter sessions of the peace in the week next after the thirty-first day of March as by the said recited act they are required.

sions may name two of their body to fix the day for holding the next general quarter sessions.

Justices at

Epiphany ses-

Proviso.

[No. VIII.] 5 & 6 W. IV. c. 26.—An Act for the Appointment of convenient Places for the holding of Assizes in Ireland. [21st August 1835.]

WHEREAS, by a statute made in the sixth year of the reign of king

6 Ric. 2, c. 5.

Richard the second, it was ordained, that the justices assigned to take assizes and deliver the gaols should hold their sessions in the principal and chief towns of every of the counties where the shire courts of 11 Ric. 2, c. 11. the same counties should be holden: And whereas by a statute made in the eleventh year of the same reign, reciting so much of the said statute of the sixth year as is herein-before recited, and stating that the said statute was in part prejudicial and grievous to the people of divers counties in England, it was provided that the chancellor of England for

the time being should have power thereof to make and provide remedy, by advice of the justices, from time to time when need should be, not- 5 & 6 W. 4, withstanding the said statute: And whereas the places at which the assizes are now held in various counties of Ireland are inconvenient to the inhabitants thereof, and it would conduce to the more cheap, speedy, and effectual administration of justice to appoint other places instead thereof for the holding of assizes; but doubts may be entertained whether that object can be fully effected by virtue of the statutes hereinbefore referred to: Be it therefore enacted, &c., That so much of Recited staeach of the said statutes as relates or may be construed to relate to tutes in part holding assizes or sessions in Ireland shall be and the same is hereby repealed.

repealed.

II. And be it declared and enacted, That the lord lieutenant or other Lord lieutechief governor or governors of Ireland, by and with the advice of the nant, &c. in privy council of Ireland, shall have power from time to time to order council may and direct at what place or places in any county in Ireland the assizes direct at what and sessions under the commissions of gaol delivery, and other com- places assizes and sessions under the commissions of gaof delivery, and other and sessions missions for the dispatch of civil and criminal business, shall be holden, shall be held, and to order and direct such assizes and sessions for the dispatch of and that they criminal and civil business to be holden at more than one place in the may be holden same county, and to order and direct the assizes and sessions under in more than such commissions for the dispatch of criminal or civil business to be one place in the holden at one or more place or places in such county; and further to county; as order and direct any special commissions of over and terminer and also special gaol delivery to be holden at any one or more places in any such commissions. county.

III. Provided always, That it shall not be lawful for the lord lieu. Place for holdtenant or other chief governor or governors of Ireland, and the privy ing assizes not council there, to make any order for changing the place for holding the to be changed, assizes in any county, or for dividing any county, for the purposes of or counties this act, unless a memorial shall have been presented to him or them by divided, unless a majority of the grand jury of the assizes of such county, praying that desired by ma-

such change or division may be made.

IV. That in case the lord lieuteuant or other chief governor or governors of Ireland, by and with the advice of the privy council of Ireland, shall think fit to order and direct that the assizes or any such special for the purpose commissions shall be holden at more than one place in any one county, of holding it shall be lawful for the lord lieutenant or other chief governor or assizes in difgovernors, by and with the advice aforesaid, to divide any such county ferent divisions for the purposes of this act, and to make rules and regulations touching of the same the venue in all cases, civil and criminal, then pending or thereafter to county. be pending and to be tried within any division of such county so to be made as aforesaid; and touching the liability and attendance of jurors, whether grand jurors, special jurors, or common jurors, at the assizes and sessions as aforesaid, or at any sessions under any special commissions, to be holden within any such division; and touching the use of any house of correction or prison as a common gaol, and the government and keeping thereof; and touching the alterations of any commissions, writs, precepts, or other proceedings whatsoever for carrying into effect the purposes of this act; and touching any other matters that may be requisite for carrying into effect the purposes of this act; and all such rules and regulations shall be of the like force and effect as if the same had been made by the authority of parliament, and shall be notified in the Dublin Gazette, or in such other manner as the lord lieutenant or other chief governor or governors of Ireland by and with the advice of the privy council of Ireland shall think fit to direct.

No. VIII. с. 2б.

jority of grand jury.

Power to di-

PART IV.

CLASS X.

EVIDENCE.

[No. 1.] 1 W. IV. c. 22.—An Act to enable Courts of Law to order the Examination of Witnesses upon Interrogatories and otherwise. [30th March 1831.]

WHEREAS great difficulties and delays are often experienced, and sometimes a failure of justice takes place, in actions depending in courts of law, by reason of the want of a competent power and authority in the said courts to order and enforce the examination of witnesses, when the same may be required, before the trial of a cause: And whereas by an act passed in the thirteenth year of the reign of his late Majesty 13 G. 3, c. 63. king George the third, intituled An Act for the establishing certain Regulations for the better Management of the Affairs of the East India Company, as well in India as in Europe, certain powers are given and provisions made for the examination of witnesses in India in the cases therein mentioned; and it is expedient to extend such powers and provisions: Be it therefore enacted, &c. That all and every the powers, authorities, provisions, and matters contained in the said recited act, relating to the examination of witnesses in India (1), shall be and the same are hereby extended to all colonies, islands, plantations, and places under the dominion of his Majesty in foreign parts (2), and to the judges of the several courts therein, and to all actions (3) depending in any of his Majesty's courts of law at Westminster, in what place or county soever the cause of action may have arisen, and whether the same may courts at West- have arisen within the jurisdiction of the court to the judges whereof the minster, when writ or commission may be directed, or elsewhere, when it shall appear examination by that the examination of witnesses under a writ or commission issued in pursuance of the authority hereby given will be necessary or conducive to the due administration of justice in the matter wherein such writ shall be applied for (4).

II. When any writ or commission shall issue under the authority of the commission the said recited act, or of the power herein-before given by this act, the judge or judges to whom the same shall be directed shall have the like power to compel and enforce the attendance and examination of witnesses as the court whereof they are judges does or may possess for that pur-

pose in suits or causes depending in such court.

(1) Under this act the court has power to issue a mandamus for the examination of witnesses in India, wherever the cause of action arose; Bain v. De Vetry, 3 Dowl. 516.

(2) A mandamus can not be issued into Scotland for the examination of witnesses there under this section, but a commission may be issued under sect. 4; Wainwright v. Bland, 3 Dowl. 654.

This statute does not apply to indictments; Rex v. Briscoe, 1 Dowl. 520.

Powers of the recited act, as to the examination of witnesses in India, extended to the colonies, &c. and to all actions in the commission shall appear necessary.

Judges to whom is directed empowered to enforce the attendance of

witnesses.

⁽³⁾ Where a witness resides abroad at so great a distance that a commission sent out to examine him would necessarily create great delay, it is not a matter of course to grant such commission on the defendant's application, but it must be made out to the satisfaction of the court that the witness's evidence would be admissible, and of service, when obtained; Lloyd v. Key, 3 Dowl. 253.

⁽⁴⁾ It is still discretionary with the court whether they will allow the expences of foreign witnesses brought over for the purpose of a cause, or only the costs of a commission; M'Alpine v. Coles, 2 Dowl, 299.

III. That the costs of every writ or commission to be issued under the authority of the said recited act, or of the power herein-before given 1 W. 4, c. 22. by this act, in any action at law depending in either of the said courts at Westminster, and of the proceedings thereon, shall be in the discretion Costs of writs

of the court issuing the same (1).

IV. That it shall be lawful to and for each of the said courts at West_ cretion of the minster, and also the court of common pleas of the county palatine of court. Lancaster, and the court of pleas of the county palatine of Durham, and Courts at Westthe several judges thereof, in every action depending in such court, upon minster, Lanthe application of any of the parties to such suit, to order the examina- caster, and tion on oath, upon interrogatories or otherwise, before the master or Durham may prothonotary of the said court, or other person or persons to be named order the exain such order (2), of any witnesses within the jurisdiction of the court nesses within where the action shall be depending (3), or to order a commission to issue their jurisdicfor the examination of witnesses on oath at any place or places out of tion by an offisuch jurisdiction (4), by interrogatories or otherwise, and by the same cerof the court; or any subsequent order or orders to give all such directions touching or may order a the time, place, and manner of such examination, as well within the commission for jurisdiction of the court wherein the action shall be depending as with- that purpose out, and all other matters and circumstances connected with such exa- out of their juminations, as may appear reasonable and just.

V. That when any rule or order shall be made for the examination of Compelling atwitnesses within the jurisdiction of the court wherein the action shall be tendance of depending, by authority of this act, it shall be lawful for the court, or any witnesses, or judge thereof, in and by the first rule or order to be made in the matter, production of or any subsequent rule or order, to command the attendance of any person to be named in such rule or order for the purpose of being examined, or the production of any writings or other documents to be mentioned in such rule or order, and to direct the attendance of any such person to be at his own place of abode, or elsewhere, if necessary or convenient so to do; and the wilful disobedience of any such rule or order shall be Disobedience deemed a contempt of court, and proceedings may be thereupon had by to be deemed a attachment (the judge's order being made a rule of court before or at the contempt of

to be in the dis-

time of the application for an attachment), if, in addition to the service court.

(1) Where the defendant obtains depositions from India under this act, the plaintiff is entitled to copies at his own expence; Davis v. Nicholson, 7 Bing. 358; 5 M. & P. 185; 1 Dowl. 220: and if the plaintiff gains the cause he is entitled to the costs of cross-examining these witnesses: Whytt v. M'Intosh. 8 B. & C. 317; 2 M. & R. 133.

(3) Where it is sworn that the witness is in a precarious state of health, and cannot attend the trial without danger, he may be examined before the officer of the court under this section; Pond v. Dimes, 2 Dowl. 730; and where illness is the ground of the application, it must appear that the illness is likely to exist at the time of the trial; 1 Dowl. 266; 1 M. & S. 384; 8 Bing. 143.

In certain cases the court will make the rule absolute in the first instance, unless cause be shown on the morrow; Pirie v. Iron, 1 Dowl. 252; 1 M. & S. 223; 8 Bing. 143.

(4) An application for the examination of a witness out of the jurisdiction of the court must be made as early as possible after issue joined; Brydges v. Fisher, 3 M. & S. 458.

A commission may be granted under this section to examine witnesses in France; 1 Tyr. 502. 505 n.

On an application to have a witness within the jurisdiction of the court examined under this section, the name of the person before whom the person is to be examined must be mentioned upon the motion; Doe d. Thorne v. Phillips, 1 Dowl. 56.

⁽²⁾ An action having been brought against the plaintiffs, whose witnesses were about to leave England for New York, they applied to the chief justice of the king's bench under this act for a commission to examine their witnesses before the trial. His lordship, however, ordered them to be examined viva voce before a gentleman of the bar, with liberty to the defendants to attend and crossexamine them. The plaintiffs took no proceedings under that order, but their witnesses having shortly after gone to New York, they filed a bill in the court of chancery, and afterwards moved for a commission to examine them at New York. The motion was granted, as that court retains its jurisdiction to grant commissions, and will exercise its own discretion on applications; Gunnell v. Cobbold, 4 Simons, 546.

1

No. I. Payment of expences.

Proviso as to production of documents.

Prisoners may be removed by habeas corpus for examination.

Examinations of witnesses to be taken upon oath.

Persons giving false evidence to be deemed guilty of perjury.

Persons aping examinations to report to the court upon the conduct or absence of witnesses, if necessary.

Costs of the order for examination may be made costs in the cause.

Restriction as to the reading or depositions of the party.

of the rule or order, an appointment of the time and place of attendance 1 W. 4, c. 22. in obedience thereto, signed by the person or persons appointed to take the examination, or by one or more of such persons, shall be also served together with or after the service of such rule or order: Provided always, that every person whose attendance shall be so required shall be entitled to the like conduct money and payment for expences and loss of time as upon attendance at a trial: Provided also, that no person shall be compelled to produce, under any such rule or order, any writing or other document that he would not be compellable to produce at a trial of the cause.

VI. That it shall be lawful for any sheriff, gaoler, or other officer having the custody of any prisoner, to take such prisoner for examination under the authority of this act, by virtue of a writ of habeas corpus to be issued for that purpose, which writ shall and may be issued by any court or judge under such circumstances and in such manner as such court or judge may now by law issue the writ commonly called a writ of

habeas corpus ad testificandum.

VII. That it shall be lawful for all and every person authorized to take the examination of witnesses by any rule, order, writ, or commission made or issued in pursuance of this act, and he and they are hereby authorized and required to take all such examinations upon the oath of the witnesses, or affirmation in cases where affirmation is allowed by law instead of oath, to be administered by the person so authorized, or by any judge of the court wherein the action shall be depending; and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall and may be indicted and prosecuted for such offence in the county wherein such evidence shall be given, or in the county of Middlesex if the evidence be given out of England.

VIII. That it shall and may be lawful for the master, prothonotary, pointed for tak- or any other persons to be named in any such rule or order as aforesaid for taking any examination in pursuance thereof, and he and they are hereby required, to make, if need be, a special report to the court touching such examination, and the conduct or absence of any witness or other person thereon or relating thereto; and the court is hereby authorized to institute such proceedings and make such order and orders upon such report as justice may require, and as may be instituted and made

in any case of contempt of the court.

1X. That the costs of every rule or order to be made for the examination of witnesses under any commission or otherwise by virtue of this act, and of the proceedings thereupon, shall (except in the case hereinbefore provided for) be costs in the cause, unless otherwise directed either by the judge making such rule or order, or by the judge before

whom the cause may be tried, or by the court.

X. That no examination or deposition to be taken by virtue of this act shall be read in evidence at any trial without the consent of the party of examinations against whom the same may be offered, unless it shall appear to the satisfaction of the judge that the examinant or deponent is beyond the without consent jurisdiction of the court, or dead, or unable from permanent sickness or other permanent infirmity to attend the trial; in all or any of which cases the examinations and depositions certified under the hand of the commissioners, master, prothonotary, or other person taking the same, shall and may, without proof of the signature to such certificate, be received and read in evidence, saving all just exceptions (1).

⁽¹⁾ A witness for the defendant was examined on a commission granted under sect. 4, on his cross-examination, a paper signed by him was produced to him, and a portion of the cross-examination and re-examination was founded on it. It was held that this paper was not to be read as part of the cross-examination, but that if the plaintiff's counsel wished it to be read before the cross-

XI. Provided always, That no order shall be made in pursuance of this act by a single judge of the court of pleas of the said county pala- 1 W. 4, c. 22. tine of Durham, who shall not also be a judge of one of the said courts at Westminster.

Proviso as to judges of Dur-

[No. II.] 3 & 4 W. IV. c. 42.—An Act for the further Amendment of the Law, and the better Advancement of Justice. [14th August 1833.]

XV. And whereas it is expedient to lessen the expence of the proof Power to the of written or printed documents, or copies thereof, on the trial of causes; judges to make be it further enacted, That it shall and may be lawful for the said judges, regulations as or any such eight or more of them as aforesaid, at any time within five to the admisyears after this act shall take effect, to make regulations by general sion of written rules or orders, from time to time, in term or in vacation, touching the documents (1). voluntary admission, upon an application for that purpose at a reasonable time before the trial, of one party to the other of all such written or printed documents or copies of documents as are intended to be offered in evidence on the said trial by the party requiring such admission, and touching the inspection thereof before such admission is made, and touching the costs which may be incurred by the proof of such documents or copies on the trial of the cause in case of the omitting to apply for such admission, or the not producing of such document or copies for the purpose of obtaining admission thereof, or of the refusal to make such admission, as the case may be, and as to the said judges shall seem meet; and all such rules and orders shall be binding and obligatory in all courts of common law, and of the like force as if the provisions therein contained had been expressly enacted by parliament.

XXVI. And in order to render the rejection of witnesses on the Witnesses inground of interest less frequent, be it further enacted, That if any wit- terested solely

examination was read, it must be read as his evidence, so as to entitle the defendant's counsel to observe upon it; Stephens v. Foster, 6 Carr. & P. 289.

(1) In pursuance of this clause two rules relating to the admission of written documents in evidence were made in Hilary term 2 W. IV; but these were superseded by the following rule of Hilary term 4 W. IV.

"Either party, after plea pleaded and a reasonable time before trial, may give notice to the other, either in town or country, in the form hereto annexed marked A., or to the like effect, of his intention to adduce in evidence certain written or printed documents, and unless the adverse party shall consent by indorsement on such notice, within forty-eight hours to make the admission specified, the party requiring such admission may call on the party required by summons, to show cause before a judge why he should not consent to such admission; or in case of refusal, be subject to pay the costs of proof. And unless the party required shall expressly consent to make such admission, the judge shall, if he think the application reasonable, make an order that the costs of proving any document specified in the notice which shall be proved at the trial to the satisfaction of the judge or other presiding officer, certified by his indorsement thereon, shall be paid by the party so required, whatever may be the result of the cause.

Provided that, if the judge shall think the application unreasonable, he shall indorse the sum-

mons accordingly.

Provided also, that the judge may give such time for inquiry or examination of the documents intended to be offered in evidence, and give such directions for inspection and examination, and impose such terms upon the party requiring the admission as he shall think fit.

If the party shall consent to the admission, the judge shall order the same to be made.

No costs of proving any written or printed document shall be allowed to any party who shall have adduced the same in evidence in any trial, unless he shall have given such notice as aforesaid, and the adverse party shall have refused or neglected to make such admission, or the judge shall have indorsed upon the summons that he does not think it reasonable to require it.

A judge may make such order as he may think fit respecting the costs of the application and the costs of the production and inspection: and in the absence of a special order, the same shall be

costs in the cause."

No. II. 3 & 4 W. 4, c. 42.

on account of the verdict to be admissible.

Direction to indorse the name of the witness on the record.

ness shall be objected to as incompetent on the ground that the verdict or judgment in the action on which it shall be proposed to examine him would be admissible in evidence for or against him such witness shall nevertheless be examined, but in that case a verdict or judgment in that action in favour of the party on whose behalf he shall have been examined shall not be admissible in evidence for him or any one claiming under him, nor shall a verdict or judgment against the party on whose behalf he shall have been examined be admissible in evidence against him or any one claiming under him (1).

XXVII. That the name of every witness objected to as incompetent on the ground that such verdict or judgment would be admissible in evidence for or against him shall at the trial be indorsed on the record or document on which the trial shall be had, together with the name of the party on whose behalf he was examined, by some officer of the court, at the request of either party, and shall be afterwards entered on the record of the judgment; and such indorsement or entry shall be sufficient evidence that such witness was examined in any subsequent proceeding in which the verdict or judgment shall be offered in evidence.

For the clause of the above act giving arbitrators appointed under a rule of court power to compel the attendance of witnesses, see ante,

Part IV., Class I.

[No. III.] 3 & 4 W. 4. c. 49.—An Act to allow Quakers and Moravians to make Affirmation in all Cases where an [28th August 1833.] Oath is or shall be required.

Quakers and Moravians pera solemn affirmation or declaration instead of an oath.

WHEREAS it is expedient and reasonable that the solemn affirmation of persons of the persuasion of the people called Quakers, and of mitted to make Moravians, should be allowed in all cases where an oath is or shall be required; be it therefore enacted, &c., That every person of the persuasion of the people called Quakers, and every Moravian, be permitted to make his or her solemn affirmation or declaration, instead of taking an oath, in all places and for all purposes whatsoever where an oath is or shall be required either by the common law or by any act of parliament already made or hereafter to be made, which said affirmation or declaration shall be of the same force and effect as if he or she had taken an oath in the usual form; and if any such person making such solemn affirmation or declaration shall be lawfully convicted wilfully, falsely, and corruptly to have affirmed or declared any matter or thing, which if the same had been in the usual form would have amounted to wilful and corrupt perjury, he or she shall incur the same penalties and forfeitures as by the

⁽¹⁾ The above section does not make the drawer of an accommodation bill a competent witness for the defendant in an action by the indorsee against the acceptor; Burgess v. Cuttill, 6 Car. & P. 282. So in an action against a carrier for negligence in carrying a parcel, the carrier's servant is not made a competent witness for the defendant by the above statute; Harrington v. Caswell, 6 Car. & P. 352; and see Mitchell v. Hunt, ib. 351; and a party who is directly interested in the event of an action or suit, by being liable for the costs, cannot be rendered a competent witness under this clause; Jesus College v. Gibbs, 1 Young & Collyer, 145. But in an action against executors for a debt of a testator, a person entitled to an annuity under the will is a competent witness for the defendants; Nowell v. Davies, 5 B. & Ad. 368; 2 Nev. & M. 745. So in an action on the warranty of a horse, the vendor of the horse to the defendant, who gave a similar warranty on that sale, is a competent witness for the defendant; Baldwin v. Nixon, (Lord Tenterden) 1 Mes. & R. 59; and an owner of lands in a parish is a good witness to prove the custody of old receipts for moduses, alleged to be payable for his lands, notwithstanding he has agreed to contribute to the costs of the suit; Tomlinson v. Lymer, 4 Simons, 473. The evidence of a witness in support of a modus for milk and calves is receivable, notwithstanding he occupies a cottage and garden in the parish; Id. 469.

laws and statutes of this realm are enacted against persons convicted of No. III. wilful and corrupt perjury, any law, statute, or custom to the contrary 3 & 4 W. 4, notwithstanding; Provided always, That every such affirmation or c. 28. declaration shall be in the words following; (that is to say,)

Penalty on affirming or declaring falsely.

- I A. B. being one of the people called Quakers [or one of the per-Form of declar-suasion of the people called Quakers, or of the united brethren ation. called Moravians, as the case may be,] do solemnly, sincerely, and truly declare and affirm.
- II. And whereas some doubts may arise as to the form of the affirma- Form of affirmtion to be taken in lieu of the oath of abjuration by persons of the per- ation in lieu of sussion of the people called Quakers; be it therefore enacted, That oath of abjurinstead of the form of affirmation prescribed in lieu of the abjuration ation. oath by an act of the eighth year of the reign of his late Majesty king 8 G. 1, c. 6. George the first, intituled An Act for granting the People called Quakers such Forms of Affirmation or Declaration as may remove the Difficulties which many of them lie under, and instead of the form of the oath of abjuration prescribed by an act of the sixth year of the reign of his late Majesty, king George the third, intituled An Act for altering the Oath of 6 G. 3, c. 53. Abjuration and the Assurance, and for amending so much of an Act of the Seventh Year of Her late Majesty Queen Anne, intituled 'An Act for the Improvement of the Union of the Two Kingdoms,' as after the Time therein limited requires the Delivery of certain Lists and Copies therein mentioned to Persons indicted of High Treason or Misprision of Treason, every person of the persuasion of the people called Quakers shall be permitted to make his or her solemn affirmation in the following words; (videlicet,)
- I A. B. [being one of the people called Quakers [or one of the persussion of the people called Quakers, or of the united brethren called Moravians, as the case may be], do solemnly, sincerely, and 'truly acknowledge, profess, testify, and declare, That king William is ' lawful and rightful king of this realm, and of all other his dominions and countries thereunto belonging: And I do solemnly and sincerely declare, That I do believe that not any of the descendants of the person 'who pretended to be prince of Wales during the life of the late king 'James the second, and since his decease pretended to be and took upon ' himself the style and title of king of England by the name of James ' the third, or of Scotland by the name of James the eighth, or the style ' and title of king of Great Britain, hath any right or title whatsoever to the crown of this realm, or any other the dominions thereunto belong-'ing; and I do renounce and refuse any allegiance or obedience to any of them: And I do solemnly promise, That I will be true and faithful and bear true allegiance to king William, and to him will be faithful against all traitorous conspiracies and attempts whatsoever which shall 'be made against his person, crown, or dignity; and I will do my best endeavour to disclose and make known to king William and his successors all treasons and traitorous conspiracies which I shall know to ' be made against him or any of them; and I will be true and faithful to ' the succession of the crown, against the descendants of the said James, and against all other persons whatsoever, which succession by an act, 'intituled An Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject, is and stands limited to 'the princess Sophia electoress and duchess dowager of Hanover, and 'the heirs of her body, being Protestants: and all these things I do ' plainly and sincerely acknowledge, promise, and declare, according to 'these express words by me spoken, and according to the plain and common sense and understanding of the same words, without any equi-'vocation, mental evasion, or secret reservation whatsoever: And I do 'make this recognition, acknowledgment, renunciation, and promise ' heartily, willingly, and truly.'

[No. IV.] 3 & 4 W. IV. c. 82.—An Act to allow the People called Separatists to make a solemn Affirmation and Declaration instead of an Oath. [28th August 1833.]

WHEREAS there are in various places in Ireland, and in some parts of England, and elsewhere, certain dissenters from the united church of England and Ireland, and from the church of Scotland, commonly called Separatists, the members of which class or sect of dissenters, from conscientious scruples, refuse to take an oath in courts of justice and other places, and in consequence thereof are exposed to great losses and inconveniences in their trades and concerns, and are subject to fines and to imprisonment for contempt of court, and the community at large are deprived of the benefit of their testimony: And whereas it is therefore expedient that the said sect called Separatists should be relieved in manner herein-after mentioned; be it enacted, &c., That every person for the time being belonging to the said sect called Separatists, who shall be required upon any lawful occasion to take an oath in any case where by law an oath is or may be required, shall, instead of the usual form, be permitted to make his or her solemn affirmation or declaration in these words following; videlicet,

Separatists, instead of an eath, may make the following affirmation.

> I A. B. do, in the presence of Almighly God, solemnly, sincerely, and truly affirm and declare that I am a member of the religious sect 'called Separatists, and that the taking of any oath is contrary to my 'religious belief, as well as essentially opposed to the tenets of that 'sect: and I do also in the same solemn manner affirm and declare.'

> Which said solemn affirmation or declaration shall be adjudged and

Such affirmation shall have taken, and is hereby enacted and declared to be of the same force and the effect of an effect to all intents and purposes, in all courts of justice and other oath.

places whatsoever where by law an oath is or may be required, as if such Separatists had taken an oath in the usual form.

Persons making a false affirmation to be subject to the same punishment as for perjury.

II. That if any person making such solemn affirmation or declaration shall in fact not be one of the people commonly called Separatists, or shall wilfully, falsely, and corruptly affirm or declare any other matter or thing which if the same had been sworn in the usual form would have amounted to wilful and corrupt perjury, every such person so offending shall incur the same penalties and forfeitures as by the laws and statutes of this kingdom are or may be enacted or provided against persons convicted of wilful and corrupt perjury.

For the provisions of the act relating to the privy council, 3 and 4 W. 4, c. 41, with respect to evidence and witnesses. See Part IV,

Class XXIV.}

PART IV.

CLASS XI.

COSTS.

3 & 4 W. IV. c. 42.—An Act for the further amendment of the Law, and the better advancement of Justice. [14th August 1833.]

XXXI. That in every action brought by any executor or administrator Executors in right of the testator or intestate, such executor or administrator shall, suing in right unless the court in which such action is brought, or a judge of any of of the testator the said superior courts, shall otherwise order, be liable to pay costs to to pay costs. the defendant in case of being nonsuited or a verdict passing against the plaintiff, and in all other cases in which he would be liable if such plaintiff were suing in his own right upon a cause of action accruing to himself; and the defendant shall have judgment for such costs, and they

shall be recovered in like manner (1).

XXXII. That where several persons shall be made defendants in any One or more of personal action, and any one or more of them shall have a nolle prosequi several defendentered as to him or them, or upon the trial of such action shall have a ants in any acverdict pass for him or them, every such person shall have judgment for tion having a and recover his reasonable costs, unless in the case of a trial, the judge nolle prosequi before whom such cause shall be tried shall certify upon the record, or a verdict under his hand, that there was a reasonable cause for making such percosts. son a defendant in such action.

XXXIII. That where any nolle prosequi shall have been entered upon Where nolle any count, or as to part of any declaration, the defendant shall be enti- prosequi entled to, and have judgment for, and recover his reasonable costs in that tered upon any behalf.

XXXIV. That in all writs of scire facias the plaintiff obtaining judg- Plaintiffin ment on an award of execution shall recover his costs of suit upon a scire facias, and judgment by default as well as upon a judgment after plea pleaded or plaintiff or dedemurrer joined; and that where judgment shall be given either for or fendant on deagainst a plaintiff or demandant, or for or against a defendant or tenant, murrer, to have upon any demurrer joined in any action whatever, the party in whose costs. favour such judgment shall be given shall also have judgment to recover his costs in that behalf.

Where an executor sues on a promise to himself, and there is a verdict against him, the defendant is not deprived of his costs by the above clause; Ashton v. Poynter, 1 Cr. M. & R. 738; 3 Dowl. P. C. 465.

⁽¹⁾ Under this section it has been held that executors were liable to costs in actions commenced before the statute came into operation and tried afterwards; Freeman v. Moyes, 1 Ad. & EU. 338; and see 2 Cr. & M. 405.

Where an executrix had commenced an action without first securing the requisite proof, laid the venue in Middlesex, though all the parties lived in Monmouthshire, and twice violated a peremptory undertaking to try, whereupon judgment, as in case of a nonsuit was signed, the court refused to exonerate her from costs; Wilkinson v. Edwards, 1 Bing. N. C. 301; 3 Dowl. P.C. 137.

The rule which the courts now seem to have laid down is this, that there must be some misconduct on the part of the defendant to make them interfere to relieve the executor from costs. See Godson v. Freeman, 1 Tyr. & Granger, 35.

No. I. c. 42.

a nonsuit.

6 G. 4, c. 50.

XXXV. And whereas it is provided in and by a statute passed in the 3 & 4 W. 4, sixth year of the reign of his late Majesty, intituled An Act for consolidating and amending the Law relative to Jurors and Juries, that the person or party who shall apply for a special jury shall pay the fees for striking Costs of special such jury, and all the expences occasioned by the trial of the cause by juries in case of the same, and shall not have any further or other allowance for the same, upon taxation of costs, than such person or party would be entitled unto in case the cause had been tried by a common jury, unless the judge before whom the cause is tried shall, immediately after the verdict, certify under his hand, upon the back of the record, that the same was a cause proper to be tried by a special jury: And whereas the said provision does not apply to cases in which the plaintiff has been nonsuited, and it is expedient that the judge should have such power of certifying as well when a plaintiff is nonsuited as when he has a verdict against him; be it therefore enacted, That the said provision of the said last-mentioned act of parliament, and every thing therein contained, shall apply to cases in which the plaintiff shall be nonsuited as well as to cases in which a verdict shall pass against him.

Power to make regulations as to the officers Westminster taxing costs.

XXXVI. And whereas it would tend to the better dispatch of business, and would be more convenient and better assimilate the practice and promote uniformity in the allowance of costs, if the officers on the of each court at plea side of the courts of king's bench and exchequer, and the officers of the court of common pleas at Westminster, who now perform the duties of taxing costs, were to be empowered to tax costs which have arisen or may arise in each of the said courts indiscriminately; be it therefore enacted, That it shall be lawful for the judges of the said courts, or such eight or more of them as aforesaid, by any rule or order to be from time to time made, in term or vacation, to make such regulations for the taxation of costs by any of the said officers of the said courts indiscriminately as to them may seem expedient, although such costs may not have arisen in respect of business done in the court to which such officer belongs, and to appoint some convenient place in which the business of taxation shall be transacted for all the said courts, and to alter the same when and as it may seem to them expedient.

> [No. II.] 4 & 5 W. IV. c. 39.—An Act to give Costs in Actions of Quare Impedit. [30th July 1834.]

WHEREAS the delay and expence of recovering advowsons, and the rights of patronage and presentation to ecclesiastical benefices, by actions of quare impedit, are much increased by reason of the defendants in such actions not being liable for the payment of costs, and the true patrons are thereby frequently deterred from the prosecution of their just rights; and it is also expedient to afford further protection to incumbents of advowsons from vexatious and unfounded proceedings to disturb them in the enjoyment thereof: Be it therefore enacted, &c., That in all writs and actions of quare impedit issued or brought from and after the passing of this act in England, Wales, or Ireland, where actions of quare a verdict shall pass or be given for the plaintiff or plaintiffs in any such writ or action, the plaintiff or plaintiffs in every such writ or action, in addition to the damages to which he or they is or are by law now entitled, shall also have judgment to recover his or their full costs and charges against the defendant or defendants therein, to be assessed, taxed, and levied in such manner and form as costs in personal actions are now by law assessed, taxed, and levied; and where in any such nonsuited, &c. writ or action the plaintiff or plaintiffs therein shall discontinue, or be nonsuited, or a verdict shall be had against him or them, that then the have judgment. defendant or defendants in every such writ or action shall have judgment to recover his or their full costs and charges against the plaintiff

Costs may be recovered in impedit.

If plaintiff is defendant to

or plaintiffs therein, to be assessed, taxed, and levied in manner aforesaid: Provided always, That no judgment for costs shall be had against 3 & 4 W. 4, any archbishop, bishop, or other ecclesiastical patron or incumbent, if the judge who shall try the cause, or if there shall be no trial by a jury, the court in which judgment shall be given, shall certify that such Exception. archbishop, bishop, or other ecclesiastical patron or incumbent had probable cause for defending such action; but in no case when the defence to any such action shall be grounded upon a presentation or presentations, collation or collations, previously made to any benefice, shall such presentation or presentations, collation or collations, be deemed or considered probable cause for defending such action.

PART IV.

CLASS XII.

JUDGMENT AND EXECUTION.

[No. I.] 1 W. IV. c. 7.—An Act for the more speedy Judgment and Execution in Actions brought in His Majesty's Courts of Law at Westminster, and in the Court of Common Pleas of the County Palatine of Lancaster; and for amending the Law as to Judgment on a Cognovit actionem in Cases of Bankruptcy. [11th March 1831.]

WHEREAS the judgment and execution in actions brought in his Majesty's courts of law at Westminster are often delayed by reason of the interval between the terms: Now, for the prevention of such delay, be it enacted, &c., That any writ of inquiry of damages to be issued in or by either of the said courts, by whatever form of process the action may have been commenced, may be made returnable and be returned on any day certain, in term or vacation, (1) to be named in such writ, and such writ shall be as valid and effectual as if the same had been returnable according to the course of the common law; and Proceedings to thereupon at the return thereof a rule for judgment may be given, costs taxed, final judgment signed, and execution issued forthwith, (2) return thereof. unless the sheriff or other officer before whom the same may be executed shall certify under his hand upon such writ that judgment ought not to be signed until the defendant shall have had an opportunity to apply to the court to set aside the execution of such writ, or one of the judges of the said courts shall think fit to order the judgment to be stayed until a day to be named in such order: Provided always, That in case the signing of judgment on such writ shall be postponed by reason of such certificate or order, or by the choice of the plaintiff, or otherwise, and judgment shall be afterwards signed thereon, such judgment shall be entered of record as of the day of the return of such writ, unless the court shall otherwise direct.

Writs may be made returnable on any day to be named therein.

be had at the

The judge beend of the sittings or assizes that execution ought to issue forthwith;

II. That in all actions brought in either of the said courts, by whatfore whom any ever form of process the same may be commenced, it shall be lawful for action shall be the judge before whom any issue joined in such action shall be to be tried may cer- tried, in case the plaintiff or demandant therein shall become nonsuit, tify before the or a verdict shall be given for the plaintiff or demandant, defendant or tenant, to certify under his hand, on the back of the record, at any time before the end of the sittings or assizes, that in his opinion execution ought to issue in such action forthwith, or at some day to be named in such certificate, and subject, or not, to any condition or qualification,

⁽¹⁾ Before this act writs of inquiry could only have been made returnable in term time, and consequently, when they were issued in vacation final judgment and execution could not be obtained without considerable delay.

⁽²⁾ Where a writ of inquiry is executed, and the defendant taken in execution in vacation pursuant to this section, the inquisition and subsequent proceedings should be filed, or the defendant should be suffered to inspect them: and the court of exchequer compelled the plaintiff's attorney to file the inquisition and subsequent proceedings; Townsend v. Baines, 3 Tyr. 104; 1 Cr. & M. 177.

and in case of a verdict for the plaintiff, then either for the whole or for any part of the sum found by such verdict; in all which cases a rule 1 W. 4, c. 7. for judgment may be given, costs taxed, and judgment signed forthwith, and execution may be issued forthwith, or afterwards, according in which case to the terms of such certificate, on any day in vacation or term; and judgment may the postea, with such certificate as a part thereof, shall and may be enbe signed, and tered of record as of the day on which the judgment shall be signed, execution isalthough the writ of distringas juratores or habeas corpora juratorum may not be returnable until after such day: Provided always, That it shall be lawful for the party entitled to such judgment to postpone the signing thereof. (1)

III. That every judgment to be signed by virtue of this act may be Entering and entered and recorded as the judgment of the court wherein the action recording of shall be depending, although the court may not be sitting on the day judgment. of the signing thereof; and every execution issued by virtue of this act shall and may bear teste on the day of issuing thereof; (2) and such Teste. judgment and execution shall be as valid and effectual as if the same had been signed and recorded and issued according to the course of

the common law.

IV. Provided always, That notwithstanding any judgment signed or Judgment may recorded, or execution issued, by virtue of this act, it shall be lawful be vacated, for the court in which the action shall have been brought to order such execution judgment to be vacated, and execution to be stayed or set aside, and stayed, and new to enter an arrest of judgment, or grant a new trial or new writ of intrial granted. quiry, as justice may appear to require; and thereupon the party affected by such writ of execution shall be restored to all that he may

(1) Certificates will be granted in actions of assumpsit on promissory notes, &c. and in other actions to which there is no reasonable ground of defence, and in which the judge shall be of opinion that execution ought to be issued forthwith, or at a future day; Bell v. Smith, 5 C. & P. 10; Tidd. 176. Though in an action of assumpsit, the verdict be taken by consent, and the consent does not comprehend any such terms, the judge will, nevertheless, certify for immediate execution; Anon. 1 Moo. & R. 167.

There formerly was a doubt among the judges whether the statute was not intended to be confined to cases of contracts; Bardon v. Cox, 1 Moo. & R. 203. But it seems to be now settled that the plaintiff is entitled to early execution in actions of debt, as well as in other actions; Young v. Crooks, ib. 220; and that it is not limited to cases of contract, but applies to all actions in which the judge shall think there ought to be such execution. Accordingly it has been granted in an action for mesne profits and costs in ejectment; Bardon v. Cox, supra. So also in an action for criminal conversation, in which the plaintiff, in order to prevent a verdict from passing against him in consequence of the prevarication of one of his witnesses, consented to be nonsuited, the judge directed execution to issue at the expiration of a month; Hambridge v. Crawley, 5 C. & P. 9.

Certificates are not grantable where there is a reasonable ground of defence; Tidd. 177; Barford v. Nelson, 5 C. & P. 8; Wright v. Guiver, ib. 9; Crookshank v. Rose, ib. 19, 20. And in an action against an executor on the bond of his testator, where a verdict is given for the plaintiff on the plea of non est factum, if the judge make an order for immediate execution, it will not entitle the plaintiff to issue execution in the first instance against the goods of the defendant; Ward v. Thomas, 2 Dowl. 87.

Affidavits, it seems, are not in general admissible in support of an application for immediate execution; Gervas v. Buckley, 1 Moo. & R. 150; but there may be cases in which justice may require them; and in a late case, Ruddick v. Simmons, 1 Moo. & R. 184, a certificate was granted on an affidavit of facts, after verdict for the plaintiff in an undefended cause; Tidd. 177.

The object of this statute is to accelerate execution for all debts where there is really no doubt on the claim for the sum recovered; per Parke, B., Percival v. Alcock, 1 Moo. & R. 167. Therefore it will be granted after a verdict by consent; id. See Wordsworth's Rules and Statutes, xliii. Second edit.

(2) See the 3 & 4 W. 4, c. 67, s. 2, by which all writs of execution may be tested on the day on which the same are issued, and made returnable immediately after execution thereof; ante, Part IV., Class III.

If a writ of execution be tested of a term previous to the judgment, or if when issued under this clause it be not tested on the day on which it issues, it becomes irregular; but the court will permit the teste to be amended (on payment of costs) even as against the bail; Englehart v. Dunbar, 2 Dowl. 302.

No. I.

Not to affect provision in relating to writs of possesacon.

Limitation as to taxing costs.

No judgment signed or exea cognovit signed after declaration filed shall be deemed within the provision of 6 G. 4, c. 16.

have lost thereby in such manner as upon the reversal of a judgment by 1 W. 4, c. 7. writ of error, or otherwise as the court may think fit to direct. (1)

V. Provided always, That nothing in this act contained shall be deemed to frustrate or make void any provision relating to the issuing of any writ of habere facias possessionem, contained in the act passed 1 W. 4, c. 70, in the first year of the reign of his present Majesty, intituled An Act for the more effectual Administration of Justice in England and Wales. (2)

VI. Provided always, That no officer of either of the said courts shall, for the purpose of taxing costs on any judgment to be signed by virtue of this act, be compelled to attend at any time between the last

day of August and the twenty-first day of October in any year.

VII. And whereas by an act passed in the sixth year of the reign of his late Majesty king George the fourth, intituled An Act to amend the cution issued on Laws relating to Bankrupts, it is provided, that no creditor, though for a valuable consideration, who shall sue out execution upon any judgment obtained by default, confession, or nil dicit, shall avail himself of such execution to the prejudice of other fair creditors, but shall be paid rateable with such creditors: And whereas, by reason of such provision, plaintiffs have been and may be deterred from accepting a cognovit actionem, with stay of execution, whereby the expence of further proceedings in such action might have been and may be saved or diminished; for remedy thereof be it enacted, That no judgment signed or execution issued after the passing of this act on a cognovit actionem signed after declaration filed or delivered, or judgment by default, confession, or nihil dicit, according to the practice of the court, in any action commenced adversely, and not by collusion for the purpose of fraudulent preference, shall be deemed or taken to be within the said provision of the said recited act. (3)

In lieu of the return days in Easter and Michaelmas terms all writs of inquiry of damages, &c. to be returnable on the first Wednesday in first and last days of each assizes.

VIII. And whereas by an act passed in the twenty-second year of the reign of his late Majesty king George the second, made and passed, among other purposes, for the more frequent return of writs in the counties palatine of Chester and Lancaster, (4) writs of capias ad respondendum may be made returnable in the court of common pleas of the said county palatine of Lancaster on the first Wednesday in every month: And whereas by another act passed at a sessions of parliament holden in the thirty-ninth and fortieth years of the reign of his late Majesty king George the third, intituled An Act for the better regulating every month, in the Practice and for preventing Delays in the Proceedings of the Court of addition to the Common Pleas at Lancaster, writs of inquiry of damages, and certain other writs in the said act in that behalf mentioned, issued by and out of the same court, may be made returnable on any of the return days in Easter and Michaelmas terms respectively, according to the course of his Majesty's court of common pleas at Westminster, in addition to the first and last days of each assizes held for the said county; and it is expedient to quicken the proceedings in the said court of the said county; be it therefore enacted, That in lieu of the return days in Easter and Michaelmas terms, all writs of inquiry of damages, and other writs in the said last mentioned act in that behalf mentioned, shall and may be made returnable in the said court of the said county on the first Wednesday in every month, in addition to the first and last days

(2) See the statute, ante, Part IV, Class I.

(4) See the act altering the practice of the Common Pleas at Lancaster, post, Part IV., Class XVI.

⁽¹⁾ Where execution within a limited time has been granted at the assizes, and judgment thereupon entered up and execution issued, the defendant is not precluded from applying, in the next term, to the court above in order to enter a suggestion to deprive the plaintiff of his costs under a court of request act. A judge at the assizes has no power to order such suggestion to be entered; Baddeley v. Oliver, 1 Cr. & M. 219; 1 Dowl. 598.

⁽³⁾ This clause does not extend to judgments on warrants of attorney, though given without collusion or intention of fraudulent preference; Crossfield v. Hanley, 4 B. & Ad. 87.

of each assizes held for the said county; and such proceedings shall No. I. and may be had on the return thereof as upon such writs returnable 1 W. 4, c. 7. according to the law in force at and before the passing of this act.

IX. And whereas persons suing in the inferior courts of the said When writs for county palatine of Lancaster are often vexatiously delayed in the reco-removing suits very of their just demands by the removal of their suits into the said from inferior court of common pleas, by reason that the writs whereby the same are courts shall be removed can be made returnable only at the assizes holden for the said returnable. county; for remedy thereof be it enacted, That all writs of pone loquelam, recordari facias loquelam, accedas ad curiam, and all other writs now lawfully issued out of the chancery of the said county palatine of Lancaster for the removal of causes from the inferior courts of the said county into the said court of common pleas, which shall be issued after the expiration of fourteen clear days next after the passing of this act, shall be made returnable on the first Wednesday in the month next after the issuing thereof, unless in the meantime the assizes shall be holden for the said county, and if the assizes shall be so holden in the meantime, then on the first or last day of such assizes, as the case may be, next after the issuing thereof; and that all such writs made returnable at any other time than according to the provision herein-before contained shall be utterly null and void to all intents and purposes.

For the provisions of the 3 & 4 W. 4, c. 42, with respect to signing judgment in writs of inquiry and writs of trial before the sheriff. See

ante, Part IV. Class IX.

PART IV.

CLASS XIII.

ERROR AND FALSE JUDGMENT.

[No. I.] 1 W. IV. c. 70.—An Act for the more effectual administration of Justice in England and Wales.

[23rd July, 1830.]

Regulation as to writs of error.

VIII. That writs of error upon any judgment (1) given by any of the said courts shall hereafter be made returnable only before the judges, or judges and barons, as the case may be, of the other two courts in the exchequer chamber, any law or statute to the contrary notwithstanding; that a transcript of the record only shall be annexed to the return of the writ; and the court of error, after errors are duly assigned and issue in error joined, shall, at such time as the judges shall appoint, either in term or vacation, review the proceedings, and give judgment as they shall be advised thereon; and such proceedings and judgment, as altered or affirmed, shall be entered on the original record, and such further proceeding as may be necessary thereon shall be awarded by the court in which the original record remains, from which judgment in error no writ of error shall lie or be had, except the same be made returnable in the high court of parliament. (2)

[No. II.] 3 & 4 W. 4. c. 42.—An Act for the further amendment of the Law, and the better Advancement of Justice. [14th August, 1833.]

Interest to be allowed on all writs of error for the time that execution has been delayed.

XXX. That if any person shall sue out any writ of error upon any judgment whatsoever given in any court in any action personal, and the court of error shall give judgment for the defendant thereon, then interest shall be allowed by the court of error for such time as execution has been delayed by such writ of error, for the delaying thereof.

[A variety of regulations with respect to write of error have been made by the recent rules of court.]

(1) This provision extends to a judgment given against a defendant in the K. B. on an indictment; Rex v. Wright, 1 Ad. & E. 434.

⁽²⁾ For error in fact a writ of error will not lie from the Common Pleas to the Exchequer chambers but only to the King's Bench; Castledine v. Mundy, 4 B. & Ad. 90.

PART IV.

CLASS XIV.

MISCELLANEOUS STATUTES RESPECTING CIVIL ACTIONS AND PROCEEDINGS.

[No. I.] 1 W. 4, c. 68.—An Act for the more effectual Protection of Mail Contractors, Stage Coach Proprietors, and other common Carriers for Hire, against the Loss of or Injury to Parcels or Packages delivered to them for Conveyance or Custody, the Value and Contents of which shall not be declared to them by the Owners thereof.

[23d July 1830.]

 ${f W}$ HEREAS by reason of the frequent practice of bankers and others of sending by the public mails, stage coaches, waggons, vans, and other public conveyances by land for hire, parcels and packages containing money, bills, notes, jewellery, and other articles of great value in small compass, much valuable property is rendered liable to depredation, and the responsibility of mail contractors, stage coach proprietors, and common carriers for hire is greatly increased: And whereas through the frequent omission by persons sending such parcels and packages to notify the value and nature of the contents thereof, so as to enable such mail contractors, stage coach proprietors, and other common carriers, by due diligence, to protect themselves against losses arising from their legal responsibility, and the difficulty of fixing parties with knowledge of notices published by such mail contractors, stage coach proprietors, and other common carriers, with the intent to limit such responsibility they have become exposed to great and unavoidable risks, and have thereby sustained heavy losses: Be it therefore enacted, &c., That from and after the passing of this act no mail contractor, stage Mail concoach proprietor, or other common carrier by land for hire shall be tractors, coach liable for the loss of or injury to any article or articles or property of proprietors, and the descriptions following; (that is to say,) gold or silver coin of this carriers not to realm, or of any foreign state, or any gold or silver in a manufactured be liable for or unmanufactured state, or any precious stones, jewellery, watches, goods above the clocks, or time-pieces of any description, trinkets, bills, notes of the value of 10l., governor and company of the banks of England, Scotland, and Ireland unless delivered respectively, or of any other bank in Great Britian or Ireland, orders, as such, and innotes, or securities for payment of money, English or Foreign stamps, creasd charge maps, writings, title deeds, paintings, engravings, pictures, gold or accepted. silver plate or plated articles, glass, china, silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other-materials, furs, (1) or lace, or any of them, contained in any parcel or package which shall have been delivered, either to be carried for hire or to accompany the person of any passenger in any mail or stage coach or other public conveyance, when the value of such article or articles or property aforesaid contained in such parcel or package shall exceed the sum of ten pounds, unless at the time of the delivery

thereof at the office, warehouse, or receiving house of such mail con-

⁽¹⁾ Hat bodies, made partly of sheep and partly of rabbits' wool, do not come under the description of furs in this act; 6 Mayhew v. Nelson, Car. & P. 58.

No. I.

tractor, stage coach proprietor, or other common carrier, or to his, her, 1 W.4, c.68. or their book-keeper, coachman, or other servant, for the purpose of being carried or of accompanying the person of any passenger as aforesaid, the value and nature of such article or articles or property shall have been declared by the person or persons sending or delivering the same, and such increased charge as herein-after mentioned, or an engagement to pay the same, be accepted by the person receiving such parcel or package (1).

When any parcel shall be so delivered, an increased rate of charge may be demanded. Notice of the same to be affixed in offices or warehouses.

II. That when any parcel or package containing any of the articles above specified shall be so delivered, and its value and contents declared as aforesaid, and such value shall exceed the sum of ten pounds, it shall be lawful for such mail contractors, stage coach proprietors, and other common carriers to demand and receive an increased rate of charge, to be notified by some notice affixed in legible character in some public and conspicuous part of the office, warehouse, or other receiving house where such parcels or packages are received by them for the purpose of conveyance, stating the increased rates of charge required to be paid over and above the ordinary rate of carriage as a compensation for the greater risk and care to be taken for the safe conveyance of such valuable articles; and all persons sending or delivering parcels or packages containing such valuable articles as aforesaid at such office shall be Carriers to give bound by such notice, without further proof of the same having come to their knowledge.

receipts, acknowledging increased rate.

In case of

III. Provided always, That when the value shall have been so declared and the increased rate of charge paid, or an engagement to pay the same shall have been accepted as herein-before mentioned, the person receiving such increased rate of charge or accepting such agreement shall, if thereto required, sign a receipt for the package or parcel, acknowledging receipt or affix the same to have been insured, which receipt shall not be liable to any notice, the party stamp duty; and if such receipt shall not be given when required, or such notice as aforesaid shall not have been affixed, the mail contractor, titled to benefit stage coach proprietor, or other common carrier as aforesaid shall not have or be entitled to any benefit or advantage under this act, but shall be liable and responsible as at the common law, and be liable to refund

neglect to give not to be enof this act. Publication of

the increased rate of charge.

notices not to limit the liability of prorespect of any other goods conveyed.

IV. Provided always, That from and after the first day of September now next ensuing no public notice or declaration heretofore made or prietors, &c., in hereafter to be made shall be deemed or construed to limit or in anywise affect the liability at common law of any such mail contractors, stage coach proprietors, or other public common carriers as aforesaid, for or in respect of any articles or goods to be carried and conveyed by them; but that all and every such mail contractors, stage coach proprietors, and other common carriers as aforesaid shall from and after the said first day of September be liable, as at the common law, to answer for the loss of any injury to any articles and goods in respect whereof they may not be entitled to the benefit of this act, any public notice or declaration by them made and given contrary thereto, or in anywise limiting such liability, notwithstanding.

The act extends to all the articles enumerated in this section, although not within the words of the preamble, "an article of great value in small compass." Owen v. Burnett, 4 Tyr. 133;

2 Cr. & M. 353.

⁽¹⁾ A looking-glass exceeding the value of ten pounds, was packed up in a case, and sent to a carrier's office, to be conveyed to the house of S——, near Lymington. The proper notice was affixed in the office pursuant to sect. 2, of this act. The words "looking-glass," and "keep this side upwards," were written on the case, but no express declaration was made of the nature and value of the goods, or any increased rate of carriage paid or tendered. The parcel was conveyed from Lymington to S---'s house on a brewer's truck (that being the usual mode of conveyance of parcels in that part of the country) on which it could not be placed in the manner directed; and the glass, when unpacked, was found to be broken. Held that the carrier was not liable for the damage.

V. That for the purposes of this act every office, warehouse, or receiving house which shall be used or appointed by any mail contractor, 1 W. 4, c. 68. or stage coach proprietor or other such common carrier as aforesaid for the receiving of parcels to be conveyed as aforesaid, shall be deemed Every office and taken to be the receiving house, warehouse, or office of such mail used to be contractor, stage coach proprietor, or other common carrier; and that deemed a reany one or more of such mail contractors, stage coach proprietors, or ceiving house; common carrier shall be liable to be sued by his, her, or their name or and any one names only; and that no action or suit commenced to recover damages coach profor loss or injury to any parcel, package, or person, shall abate for the rier shall be want of joining any co-proprietor or co-partner in such mail, stage coach, liable to be or other public conveyance by land for hire as aforesaid.

VI. Provided always, That nothing in this act contained shall extend Not to affect or be construed to annul or in anywise affect any special contract between contracts. such mail contractor, stage coach proprietor, or common carrier, and

any other parties, for the conveyance of goods and merchandizes.

VII. Provided also, That where any parcel or package shall have Parties entitled been delivered at any such office, and the value and contents declared to damages for as aforesaid, and the increased rate of charges been paid, and such par-loss may also cels or packages shall have been lost or damaged, the party entitled to recover back recover damages in respect of such loss or damage shall also be entitled extra charges. to recover back such increased charges so paid as aforesaid, in addition to the value of such parcel or package.

VIII. Provided also, That nothing in this act shall be deemed to pro- Nothing herein tect any mail contractor, stage coach proprietor, or other common carrier to protect felofor hire from liability to answer for loss or injury to any goods or arti- nious acts. cles whatsoever arising from the felonious acts of any coachman, guard, book-keeper, porter, or other servant in his or their employ, nor to protect any such coachman, guard, book-keeper, or other servant from liability for any loss or injury occasioned by his or their own personal

neglect or misconduct.

IX. Provided also, That such mail contractors, stage coach proprie- Coach protors, or other common carriers for hire shall not be concluded as to the prietors and value of any such parcel or package by the value so declared as afore- carriers liable said, but that he or they shall in all cases be entitled to require, from only to such the party suing in respect of any loss or injury, proof of the actual value damages as are of the contents by the ordinary legal evidence, and that the mail con- proved. tractors, stage coach proprietors, or other common carriers as aforesaid shall be liable to such damages only as shall be so proved as aforesaid, not exceeding the declared value, together with the increased charges as before mentioned.

X. That in all actions to be brought against any such mail contractor, Money may be stage coach proprietor, or other common carrier as aforesaid, for the paid into court loss of or injury to any goods delivered to be carried, whether the value in all actions of such goods shall have been declared or not, it shall be lawful for the for loss of defendant or defendants to pay money into court in the same manner goods. and with the same effect, as money may be paid into court in any other

XI. That this act shall be deemed and taken to be a public act, and Public Act. shall be judicially taken notice of as such by all judges, justices, and others, without being specially pleaded.

[No. II.] 1 & 2 W. IV. c. 58.—An Act to enable Courts of Law to give Relief against adverse Claims made upon Persons having no Interest in the Subject of such Claims.

[20th October 1831.]

Upon application by a defendant in an action of assumpeit, &c. stating that the right in the subject matter is in a third party, the court may order such third party to appear and maintain or relinquish his claim, and in the meantime stay proceedings in such action.

WHEREAS it often happens that a person sued at law for the recovery of money or goods wherein he has no interest, and which are also claimed of him by some third party, has no means of relieving himself from such adverse claims but by a suit in equity against the plaintiff and such third party, usually called a bill of interpleader, which is attended with expence and delay; for remedy thereof be it enacted, &c., That upon application made by or on the behalf of any defendant sued in any of his Majesty's courts of law at Westminster, or in the court of common pleas of the county palatine of Lancaster, or the court of pleas of the county palatine of Durham, in any action of assumpsit, debt, detinue, or trover, such application being made after declaration, and before plea, by affidavit or otherwise, showing that such defendant does not claim any interest in the subject matter of the suit, but that the right thereto is claimed or supposed to belong to some third party who has sued or is expected to sue for the same, and that such defendant does not in any manner collude with such third party, but is ready to bring into court or to pay or dispose of the subject matter of the action in such manner as the court (or any judge thereof) may order or direct, it shall be lawful for the court, or any judge thereof, to make rules and orders calling upon such third party to appear and to state the nature and particulars of his claim, and maintain or relinquish his claim, and upon such rule or order to hear the allegations as well of such third party as of the plaintiff, and in the meantime to stay the proceedings in such action, and finally to order such third party to make himself defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues (1), and also to direct which of the parties shall be plaintiff or defendant on such trial, or, with the consent of the plaintiff and such third party, their counsel or attorneys, to dispose of the merits of their claims and determine the same in a summary manner, and to make such other rules and orders therein as to costs and all other matters as may appear to be just and reasonable (2).

(2) The object of this statute is to give relief, without compelling the party seeking it to have recourse to a bill of interpleader. The act does not take away the right of a party to file a bill of interpleader, for the remedy is merely concurrent. And if a sheriff or stakeholder have filed such a bill, then having made his election, the common law courts will not interfere. Chitty's Gen. P. L. vol. 2, 345.

As the statute in express terms is limited to actions of assumpsit, debt, detinue and trover, many cases will arise to which the act will not apply, but resort must be had to a court of equity. Frequently a plaintiff has an election to proceed in an action of trespass or trover; and if he wish to avoid a summary application under the above act, he may do so by issuing his writ, and declaring in trespass. So by declaring in covenant on a lease instead of debt, it would seem doubtful whether the court could interfere under the terms of the act, and case and replevin are certainly not actions within the act. Ibid. 346.

It has been held that the statute does not extend to equitable claims; Sturges v. Claude, 1 Dowl.

505; but such a construction does not seem necessarily to arise from the words of the act.

The provisions of the act are two-fold; first, such as relate to persons against whom actions have been brought for the recovery of money or goods, in which they have no interests, which are claimed by some third party; and second, such as are intended to afford relief to sheriffs and other officers in execution of process against goods and chattels.

With reference to the persons entitled to the benefit of the act, a party, who by his own act is -laced in a situation to be sued, cannot call upon the court to substitute another defendant in his

⁽¹⁾ Where an issue has been directed by the court to try the right of contending parties to the property in question, and the intermediate party has paid money into court to abide the event of the issue, the successful party cannot move to have the money paid out to him until final judgment has been signed. Cooper v. Lead Smelting Company, 9 Bing. 634; 2 Mo. & S. 810; 1 Dowl. 728, S. C.

II. That the judgment in any such action or issue as may be directed by the court or judge, and the decision of the court or judge in a summary manner, shall be final and conclusive against the parties, and all persons claiming by, from, or under them.

No. II. 1 & 2 W. 4, c. 58.

Judgment and decision to be final.

stead; 9 Bing. 82; and a person who has paid over the proceeds to the execution creditor; Anderson v. Calloway, 3 Tyr. 237; 1 C. & M. 182, S. C.; will not be relieved under this act; and a defendant who is sued for the recovery of property in his possession, in which he has no interest, but which is claimed by a third party, cannot apply to be relieved under the statute against the claims of the plaintiff and such third party, if he has an indemnity from the claimant; and the court will discharge a rule obtained for that purpose, with costs. Tucker v. Morris, 1 C. & M. 73; 1 Dowl. 639, S. C.

A lien, however, attaching upon the goods in dispute, and which must be satisfied by the party who ultimately turns out to be entitled to them, does not prevent the party who hold the goods from applying to the court for relief. Cotter v. Bank of England; 3 Mo. & S. 180; 2 Dowl. 728, S. C. But the case of a wharfinger who claims a lien in goods for wharfage, &c., which attaches only on one of the parties by whom the goods are claimed is not within the act. 2 Mo. & S. 131; 9 Bing. 84. Goods consigned to A., and warehoused in the London docks, were claimed by B. The Dock Company refused to deliver them to A., without an indemnity, wherethon A. brought trover, with counts for special damage for the detention. The company applied for relief under this act. The court held that B., who did not appear after due notice, was barred of his claim against the company, but that the statute did not preclude A. from proceeding to recover for his special damage, if any, and made a rule, that on the company undertaking to deliver up the goods, if A. accepted them, his action should be discontinued on payment of costs by the company; but if he chose to proceed, the count in trover should be struck out, and he should proceed

for the special damage only. Lucus v. London Dock Company, 4 B. & Ad. 378.

The court cannot relieve a stakeholder until action brought against him and declaration; but if acting with faith, he will be allowed his costs out of the fund in dispute, which will be ultimately paid by the unsuccessful party. Parker v. Linnett, 2 Dowl. 562. A person claiming, but not a party to the rule, cannot be heard upon a rule obtained by the sheriff under the interpleader act; and if called upon in one character, he cannot appear in another. Where a landlord gives notice of his claim for rent in proper time, the sheriff ought to pay him, otherwise he will be subject to the landlord's costs of appearing. Where the rule called upon the assignees of a bankrupt, who claimed under a fiat, afterwards superseded, the sheriff was held not liable to pay the costs of the assignee's appearance. Clarke v. Lord, 2 Dowl. 55. Where the sheriff took goods under an execution, and the defendant gave the sheriff notice that the goods were the property of A., the sheriff having obtained a rule under the interpleader act, and A. not appearing to show cause, the court made the rule absolute for barring A.'s claim, and made the defendant pay the costs of the sheriff's application. Lewis v. Eicke, 4 Tyr. 157; 3 C. & M. 321; S. C. Claimants neglecting to appear under the interpleader act are precluded by the terms of rule from enforcing their claim. Ford v. Dillon, 2 Nev. & Man. 662. A claimant under the interpleader act may appear without taking copies of the sheriff's affidavits. Mason v. Kedshaw, 2 Dowl. 595. Where an action in the Common Pleas and also in the King's Bench is brought against a party, he must obtain rules in both courts under the interpleader act. If part of the sum claimed has been paid to one of the contesting parties, he must pay it into court before he can have relief under the interpleader act. Allen v. Gilby, 3 Dowl. 143. No rule for interpleading will be granted after a suit has been stayed by injunction. Arayne v. Lloyd, 1 Bing. N. C. 720. Where an issue is directed to be tried between an execution creditor and a claimant, brought before the court by the sheriff under the act, but the claimant refuses to try, and abandons his claim, he will be liable to pay the execution creditor's costs down to the time of the claim being abandoned, and of applying to take the money paid in by the sheriff out of court. Wells v. Hopkins; Bragg v. the Same, 3 Dowl. 346.

The rule under the first section of the act cannot be drawn up for a stay of proceedings, unless notice has been given. Such a rule may be drawn up to show cause at chambers. Smith v. Wheeler,

3 Dowl. 431.

As to Costs.—Where the applicant has acted bond fide, his costs will in the first instance be directed to be paid out of the fund or proceeds of the goods in dispute, to be repaired by the party ultimately unsuccessful. Duear v. Macintosh, 3 M. & S. 174; 2 Dowl. 730, S. C.; Cotter v. Bank

of England, 3 M. & S. 180.

When a claim is made by one on behalf of another to goods seized by the sheriff in execution, and upon a rule being obtained under this act neither party appears to show cause, the plaintiff is not entitled to receive his costs from the sheriff, but the plaintiff and sheriff are both entitled to their costs from the claimant or his agent, upon a rule to show cause. Philby v. Ikey, 2 Dowl. 222. Where the sheriff applies, but the claimant does not appear, the judgment creditor is entitled to have his costs from the claimant, but the sheriff has no costs. If the rule do not pray for costs, the order upon the claimant is only conditional, unless he shows cause within four days. Perkins v. Penton, 1b. 108.

No. II. c. 58.

If such third party shall not court may bar hisclaimagainst the original defendant.

Proviso as to orders made by a single judge.

If a judge thinks the

matter more fit

for the decision

of the court, he

may refer it.

III. That if such third party shall not appear upon such rule or order 1 & 2 W. 4, to maintain or relinquish his claim, being duly served therewith (1), or shall neglect or refuse to comply with any rule or order to be made after appearance, it shall be lawful for the court or judge to declare such third party, and all persons claiming by, from, or under him, to be for ever barred from prosecuting his claim against the original defendant, his appear, &c. the executors or administrators; saving nevertheless the right or claim of such third party against the plaintiff; and thereupon to make such order between such defendant and the plaintiff, as to costs and other matters, as may appear just and reasonable

IV. Provided always, That no order shall be made in pursuance of this act by a single judge of the court of pleas of the said county palatine of Durham who shall not also be a judge of one of the said courts at Westminster, and that every order to be made in pursuance of this act by a single judge not sitting in open court shall be liable to be rescinded or altered by the court in like manner as other orders made by

a single judge.

V. Provided also, That if upon application to a judge, in the first instance or in any later stage of the proceedings, he shall think the matter more fit for the decision of the court, it shall be lawful for him to refer the matter to the court; and thereupon the court shall and may hear and dispose of the same in the same manner as if the proceeding had originally commenced by rule of court, instead of the order of a judge.

VI. And whereas difficulties sometimes arise in the execution of process against goods and chattels, issued by or under the authority of the other officers in said courts, by reason of claims made to such goods and chattels by assignees of bankrupts and other persons not being the parties against grocess against whom such process has issued, whereby sheriffs (2) and other others goods and chattels.

For relief of sheriffs and

Where an issue is tried by the direction of the court, the unsuccessful party is liable for the costs. Bowen v. Bramridge, 2 Dowl. 213. And where an issue was directed to be tried between an execution creditor and a claimant, brought before the court by the sheriff, but the claimant refused to try it, and abandoned his claim, he was held liable to pay the execution creditor's costs down to the time of the abandonment of the claim, and his costs of applying to take out the money paid into court by the sheriff. Wills v. Hopkins, 3 Dowl. 346.

Where, in consequence of a claim made to goods seized by the sheriff in execution, the court ordered the claimant to proceed to trial, upon paying a sum of money into court, which he neglected to do, and a rule was then obtained to compel him to pay the costs occasioned by his false claim; held, that he was liable to pay those costs, as well as the costs of that rule, though no previous ap-

plication had been made to him. Scales v. Sargeson, 3 Dowl. 707.

(1) If the parties to the rule do not appear, there must be an affidavit of service upon them before the court will entertain the motion. Phillips v. Spry; Lambert v. Townsend; Jervis's Rules, p. 40, App. 2d ed. Claimants neglecting to appear are precluded, by the terms of the rule, from enforcing their claim. Ford v. Dillon, 2 Nev. & M. 662. But an execution creditor is not "a third party" within the act, so as that his claim will be barred by his not appearing under the rule. Donniger v. Hinzman, 2 Dowl 424.

(2) At common law the courts would in general protect their own officers when acting bond fide in executing the process of the court (as a sheriff acting in obedience to a writ of fieri facias) from the risk of liability to two different claimants, as where he had seized goods under a writ of fi. fa., provided he applied to the court as soon as he found himself in peril; as if upon such seizure he had notice that the party whose goods he had taken had committed an act of bankruptcy, and that assignees claimed the property, as there was a reasonable doubt whether the goods were not liable to an extent of the crown, the court would enlarge the time for returning the writ, when ruled by the plaintiff to do so, until he or the assignees had indemnified him, or had inter se settled their mutual claims, (see the decisions cited in Chitty's G. P. L., vol. 2, p. 341,) and would compel the adverse claimant to try the right, whilst the proceeding against the sheriff or officer was suspended, or upon the terms of his bringing the proceeds into court to abide the result. At common law this was the only mode of relief to the sheriff who had seized goods in settlement, for he could not file a bill of interpleader, because, as observed by Lord Eldon, "a person cannot file a bill of interpleader who was obliged to put his case upon this, that as to some of the parties he might be a wrongdoer, as by the seizure and temporary detention of the goods." Slingsby v. Boulton, 1 Ves. & B. 334. For the same reason the court of King's Bench, on the motion of an auctioneer, who had, before notice of any third person's claim, sold under an execution by the direction of the

are exposed to the hazard and expence of actions; and it is reasonable to afford relief and protection in such cases to such sheriffs and other 1 & 2 W. 4, officers; be it therefore further enacted, That when any such claim shall be made to any goods or chattels taken or intended to be taken in execution under any such process, or to the proceeds or value thereof, it shall and may be lawful to and for the court from which such process issued, upon application of such sheriff or other officer made before or after the return of such process, and as well before as after any action brought against such sheriff or other officer, to call before them, by rule of court, as well the party issuing such process as the party making such claim, and thereupon to exercise, for the adjustment of such claims and the relief and protection of the sheriff or other officer, all or any of the powers and authorities herein-before contained, and make such rules and decisions as shall appear to be just, according to the circumstances of the case; and the costs of all such proceedings shall be in the discretion of the court (1).

No. II. c. 58.

sheriff, gave him leave to bring the proceeds into court, with a stay of actions against him; MS. Chitty's G. P. L. 218, 341, n. (d).

(1) With respect to the sheriff, where process is issued out of different courts, and directed to the same sheriff, he must apply for relief to the respective courts out of which the process issues. Bragg v. Hopkins, 2 Dowl. 15. But cause cannot be shown against the rule at chambers; for, although the first section of the act gives such power to a single judge, yet, by the sixth section, it

is granted to the court only. Shaw v. Roberts, Ib. 25; and see Cook v. Allen, Ib. 11.

The court will relieve the sheriff, in the case of a conflicting claim on property seized by him, though that claim be only of a lien on the property. Ford v. Bayntum, 1 Dowl. 357. But where a sheriff had levied under a fi. fa., and while in possession he received notice that other writs of execution had been issued against the defendant's goods, and that the first execution creditor was not entitled to the whole proceeds of the levy, the court held that the sheriff was not entitled to relief under this statute. Salmon v. James, 1 Dowl. 369; and see Day v. Waldock, Ib. 523. Nor will he be relieved, if he be placed in circumstances which give him an interest on either side. Duddin v. Long, 3 Dowl. 139; 1 Bing. N. C. 299. And where the sheriff applied, but it appeared that an attachment had been already obtained against him for not returning the writ, the court would only make the rule absolute, on the terms of his paying for moving for the attachment. Alemore v. Adeans, 3 Dowl. 498.

If a sheriff receives notice on the 23d of January of a claim to goods seized by him, he will not be entitled to relief, unless he comes to the court in Hilary Term. Ridgway v. Fisher, 3 Dowl. 567. But otherwise, where he received notice of an intended fiat of bankruptcy against the defendant, and came to the court on the second day of the term after the assignees were appointed. Barker v. Phipson, 3 Dowl. 590. And if he wish to obtain relief under it, he must go to the court promptly, and no supplemental affidavit explaining his delay will be allowed, when cause shown against the rule. Cook v. Allen, 2 Dowl. 11. In Devereux v. John and Another, the court said, "Although no time is mentioned in the act, yet the sheriff must come within a reasonable time. But here the sheriff suffers an action to be brought against him, and keeps possession of the goods for several months." Rule discharged, the sheriff paying the costs of all parties. 1 Dowl. 548. Where the sheriff seized under an execution on the 14th of December, a rule which had been obtained to set aside judgment and execution, was discharged on the 20th of January. On the 31st the sheriff obtained a rule under the interpleader act. It was held he ought to have applied earlier, and the rule was discharged with costs. Semble, He ought to have applied at the commencement of Hilary Term. Cook v. Allen, 2 Dowl. 11; 3 Tyr. 386; 1 C. & M. 542, S. C. So where a sheriff received notice of a claim on the 23d of January, he was held too late in applying for relief in Easter Term. Ridgway v. Fisher, 3 Dowl. 567. But a sheriff is sufficiently early if he comes to the court for relief within eleven days after notice of an expected claim. Skipper v. Lane, 2 Dowl. 784; 4 Mo. & S. 283, S. C. The court, however, will be guided by the special circumstances of the case, in determining whether the sheriff has applied sufficiently early. See Dixon v. Ensell, 2 Dowl. 621.

It has been held that the sheriff ought to deny collusion with any of the parties. Dixon v. Ensell. 2 Dowl. 621; and see Cook v. Allen, ante; but in Donnizel v. Hinxman, and Dobbin v. Green, 2 Dowl. 434, 509, it is said to be otherwise; and in a recent case, Boonot v. Woodall, 1 Tyr. & Granger, 11, the court of Exchequer, after referring to the act, decided that the sheriff need not

deny collusion.

A sheriff is not entitled to relief, if he pays over the money to the execution creditor after notice of a claim by a third party. Anderson v. Calloway, 1 Dowl. 636; 1 C. & M. 182, S. C.; Tidd's Sup. 191; nor, if he delivers up any part of the goods to the claimant. Braine v. Hunt, 2 Dowl. 391; 4 Tyr. 243; 2 C. & M. 418, S. C.

Where the sheriff seized goods which had been distrained by the landlord, the court refused him relief, though he had applied for indemnity to the execution creditor, and been refused. Haythorn

No. II. 1 & 2 W. 4, c. 58. Rules, orders, &c. made in pursuance of entered of record, and made evidence. Costs.

Writs.

Sheriffs fees.

VII. That all rules, orders, matters, and decisions to be made and done in pursuance of this act, except only the affidavits to be filed, may, together with the declaration in the cause (if any), be entered of record, with a note in the margin expressing the true date of such entry, to the end that the same may be evidence in future times, if required, and to secure and enforce the payment of costs directed by any such rule or order, and every such rule or order so entered shall have the force and efthis act may be fect of a judgment, except only as to becoming a charge on any lands, tenements, or hereditaments; and in case any costs shall not be paid within fifteen days after notice of the taxation and amount thereof given to the party ordered to pay the same, his agent or attorney, execution may issue for the same by fieri facias or capias ad satisfaciendum, adapted to the case, together with the costs of such entry, and of the execution if by fieri facias; and such writ and writs may bear teste on the day of issuing the same, whether in term or vacation; and the sheriff or other officer

v. Bush, 2 Dowl. 641. But where the sheriff seized under a fi. fa, and a third person claimed, it was held, that the sheriff was not bound to take an indemnity from the execution creditor, but might apply for relief under this act. Levy v. Champneys, Ib. 454. It has been seen that the sheriff will not be relieved where he has paid over the proceeds of the execution; so also any neglect on his part, with regard to the good; in question, will prevent his being relieved. Brackenbury v. Laurie, 3 Dowl. 180.

Again, it seems that to entitle the sheriff to relief, an actual claim must have been made to the goods seized under the execution. And where a notice was given by some person whose name did not appear, "that a fiat in bankruptcy had been issued against the defendant, and that assignees had been chosen," it was held not a sufficient claim; Bentley v. Hook, 2 C. & M. 426; 4 Tyr. 229, S. C.: and in order to entitle the sheriff to relief, it must not only appear that a claim has been made, but also that there has been something done on the part of the alleged claimants, which shows that they intend to enforce their claims against the property seized; Isaac v. Spilsbury, 10 Bing. 3; 2 Dowl. 211; 3 M. & S. 341, S. C.: but, on the other hand, the sheriff need not wait for proceedings to be taken against him before he applies to the court for relief; Green v. Brown, 3 Dowl. 337.

Where the sheriff is before the court for relief, no one has a right to be heard against the rule, unless he is called upon by the rule, though he is in fact a claimant; and if he is called on in one

character, he cannot appear in another; Clarke v. Lord, 2 Dowl. 55.

As to the Costs of the Sheriff.—Where an adverse claim is set up to goods seized by the sheriff, and the latter applies to the court for relief, and the adverse party does not appear to support his claim, the court will bar his claim as to the sheriff, and make him pay the judgment creditor his costs of appearing on the sheriff's rule; Bowdler v. Smith, 1 Dowl. 417; and see Perkins v. Burton, 3 Tyr. 51; 2 Dowl. 108. Where a fi. fa. was issued, goods seized under it, an adverse claim set up, and the sheriff applied for relief under this act, and the execution creditor did not appear to support his fi. fa., the court granted the costs of the adverse claimant's appearing to support his claim to be paid by the execution creditor, but not those of the sheriff; but the execution creditor having afterwards appeared and opened the rule, the court granted the sheriff the costs of his second appearance; Bryant v. Ikey, 1 Dowl. 428. As the sheriff, before the statute, was not entitled to the costs of applying to the court for enlarging the time to make his return, so he is not entitled under this statute to the costs of his application; Ib. Per Patteson, J.

The sheriff ought to exercise considerable caution in coming to the court for relief, for he is bound to inquire into the nature of the claims set up; and therefore, if he bring parties before the court in consequence of a claim which is clearly bad in point of law, the court will compel him to pay costs; Bishop v. Hinxman, 2 Dowl. 166. The sheriff having taken goods in execution while there was rent due to the landlord, which he claimed of the sheriff, the laster brought the landlord, with other claimants, into court, under the above act. The court ordered the sheriff to pay the rent upon the landlord's giving security, and also to pay his costs. It was held, that the sheriff was

liable to pay the expence of the security; Clarkev. Lord, 2 Dowl. 227.

The court will allow the sheriff who applies for relief, such expences as he may incur as agent of the parties after his application; Dabbs v. Humphries, 3 Dowl. 377; 1 Bing. N. C. 412. But where the claimant does not appear, the sheriff will not have his costs, nor will the plaintiff be allowed his costs, except in the event of extremely improper conduct in the parties; Oram v. Sheldon, 3 Dowl. 640; but see Philby v. Ikey, 2 Dowl. 222. In other cases the costs of the proceedings are declared by this act to be in the discretion of the court; Tidd's Supp. 192.

The sheriff's right to poundage depends upon the event of the application or suit, and that be determined in favour of the execution creditor, the sheriff will, of course, be entitled to his poundage, but otherwise not; Parker v. Booth, 8 Bing. 85; Northcote v. Beauchamp, Ib. 86;

Barker v. Dynes, 1 Dowl. 169; Bowdler v. Smith, Ib. 417.

executing any such writ shall be entitled to the same fees, and no more, as upon any similar writ grounded upon a judgment of the court.

VIII. And whereas by a certain act made and passed in the last session of parliament, intituled An Act to improve the Proceedings in Prohibition and on Writs of Mandamus, it was among other things enacted, that it Upon any apshould be lawful for the court to which application may be made for any plication under such writ of mandamus as is therein in that behalf mentioned to make 1 W. 4, c. 21, rules and orders calling not only upon the person to whom such writ and this act, the may be required to issue, but also all and every other person having or court to exerclaiming any right or interest in or to the matter of such writ, to show cise such cause against the issuing of such writ and payment of the costs of the make such rules application, and upon the appearance of such other person in compliance as are given by with such rules, or in default of appearance after service thereof, to exer- or mentioned cise all such powers and authorities, and make all such rules and orders in this act. applicable to the case, as were or might be given or mentioned by or in any act passed or to be passed during that present session of parliament for giving relief against adverse claims made upon persons having no interect in the subject of such claims: And whereas no such act was passed during the then present session of parliament; be it therefore enacted, That upon any such application as is in the said act and herein-

No. II. 1 & 2 W. 4, c. 58.

[No. III.] 3 & 4 W. IV. c. 99.—An Act for facilitating the Appointment of Sheriffs, and the more effectual Audit and passing of their Accounts; and for the more speedy Return and Recovery of Fines, Issues, forfeited Recognizances, Penalties, and Deodands; and to abolish certain Offices in the Court of Exchequer. [29th August 1833.]

before mentioned, it shall be lawful for the court to exercise all such powers and authorities, and make all such rules and orders applicable to

the case, as are given or mentioned by or in this present act.

WHEREAS the appointment of sheriffs, and the audit and passing of their accounts in the court of exchequer, are attended with unnecessary expence, delay, and trouble: For remedy whereof be it enacted, &c. That so much of an act passed in the third year of the reign of his Repeal of part Majesty king George the first, intituled An Act for the better regulating of 3 G. 1, c. 15, the Office of Sheriffs, and for ascertaining their Fees, and the Fees for and of 3 G. 1. suing out their Patents and passing their Accounts, as entitles and autho- c. 16. rizes certain officers therein and in the schedule thereto mentioned to demand, take, and receive the fees named in the said schedule, and also the said schedule, and also an act passed in the said third year of the reign of his Majesty king George the first, intituled An Act for better enabling Sheriffs to sue out their Patents and pass their Accounts, be and the same are hereby repealed.

II. That from and after the passing of this act it shall not be neces- Sheriffs not to sary for any sheriff or sheriffs of any county, city, or town in England sue out patent or Wales to sue out any patent or writ of assistance, or to make or pay or pass acproffers, nor shall any bailiff or bailiffs of liberties in England or Wales counts in exbe required to make or pay any proffers, nor shall he or they have any chequer. day of prefixion, or be apposed, or take any oath or oaths before the cursitor baron to account, or account, or be cast out of court, as now or heretofore in use in his Majesty's court of exchequer, any law, statute, or usage to the contrary notwithstanding.

III. That whenever any person shall be duly pricked or nominated by Appointment his Majesty for and to be sheriff of any county in England or Wales, ex- of sheriff. cept the county palatine of Lancaster, the same shall be forthwith notified in the London Gazette, and a warrant in the form set forth in the schedule to this act shall be forthwith made out and signed by the clerk of the privy council, and transmitted by him to the person so nominated and appointed sheriff as aforesaid; and the appointment of sheriff thereby

No. III. 3 & 4 W. 4, c. 99.

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made shall be as good, valid, and effectual in the law to all intents and purposes whateoever as if the same had been made by patent under the great seal of Great Britain, or by any ways and means heretofore in use; and the sheriff and sheriffs so appointed as aforesaid shall thereupon, and upon taking the oath of office hereafter mentioned, have and exercise all powers, privileges, and authorities whatsoever usually exercised and enjoyed by sheriffs of counties in England and Wales, without any patent writ of assistance or other writ whatsoever, or entering into any recognizance by himself or sureties, and without payment of or being liable to pay any fees whatsoever for the same.

IV. Provided always, That a duplicate of the said warrant shall, within ten days next after the date of the same warrant, be transmitted by the said clerk of the privy council to the clerk of the peace of the county for which such person shall be nominated and appointed sheriff, to be by the said clerk of the peace enrolled, and which he is hereby required to en-

rol and keep without fee or reward.

Sheriff to appoint an under sheriff, and transmit a duplicate thereof to the clerk of the peace for the county.

V. That from and after the passing of this act every person so appointed sheriff as aforesaid shall, within one calendar month next after the notification of his appointment in the London Gazette, by writing under his hand, nominate and appoint some fit and proper person to be his under sheriff, and shall transmit a duplicate thereof to the clerk of the peace for the county, to be by him filed, and which he is hereby required to file, among the records of his office, and for which he shall be entitled to demand and have from such under sheriff the sum of five shillings, and no more; and such appointment and duplicate shall not be liable to any stamp duty whatever.

Oaths of sheriff riff.

VI. That each and every person so appointed sheriff and under sheriff and under she- as aforesaid, except the sheriffs of London and Middlesex and their under sheriffs, shall, before he enter upon the execution of his office, take the oath of office heretofore and now required by law, which oath shall be fairly written on parchment (without being subject to any stamp duty) and signed by him, and shall and may be sworn before the barons of his Majesty's exchequer or any of them, or any one of his Majesty's justices of the peace for the county of which he shall be appointed sheriff or under sheriff; and the same shall be thereupon transmitted to the clerk of the peace for the same county, who is hereby required to file the same among the records of his office, and for which he shall be entitled to demand and have from such sheriff or under sheriff the sum of five shillings, and no more.

Prisoners and writs to be turned over by sheriffs at the expiration of their office to the incoming sheriff.

VII. That every sheriff of any county, city, liberty, division, town corporate, or place shall at the expiration of his office make out and deliver to the new or incoming sheriff a true and correct list and account under his hand of all prisoners in his custody, and of all writs and other process in his hands not wholly executed by him, with all such particulars as shall be necessary to explain to the said incoming sheriff the several matters intended to be transferred to him, and shall thereupon turn over and transfer to the care and custody of the said incoming sheriff all such prisoners, writs, and process, and all records, books, and matters appertaining to the said office of sheriff; and the said incoming sheriff shall thereupon sign and give a duplicate of such list and account to the sheriff going out of office, to whom the same shall be a good and sufficient discharge of and from all the prisoners therein mentioned and transferred to the said incoming sheriff, and the further charge of the execution of the writs, process, and other matters therein contained, without any writ of discharge, or other writ whatsoever; and the said incoming sheriff shall thereupon stand and be charged with the said prisoners, and also with the execution and care of the said writs, process, and other matters, contained in the said list and account, as fully and effectually as if the same writs and process had been turned over by indenture and schedule; and in case any sheriff shall refuse or neglect at the expiration of his office to make out, sign, and deliver such list and account as aforesaid, and to turn over the

process aforesaid in manner aforesaid, every such sheriff so neglecting or refusing shall be liable to make such satisfaction by damages and 3 & 4 W.4, costs to the party aggrieved as he, she, or they shall sustain by such

neglect or refusal.

VIII. That the accounts of the present and future sheriffs of counties, Sheriffs' accities, and towns within England (except the counties palatine of counts to be Chester, Lancaster, and Durham) shall from and after the passing of audited by this act be examined and audited by the commissioners appointed or to commissioners be appointed for auditing public accounts under and by virtue of the three for auditing several acts herein-after next mentioned; (that is to say,) an act passed public acin the twenty-fifth year of the reign of his late Majesty king George the Third, intituled An Act for better examining and auditing the Public 25 G.3, c. 52. Accounts of this Kingdom; an act passed in the forty-sixth year of the reign of his said late Majesty king George the third, intituled An Act 46 G.3, c. 141. for making more effectual Provision for the more speedy and regular Examination and Audit of the Public Accounts of this Kingdom; and an act passed in the first and second years of the reign of his late Majesty king 1 & 2 G. 4, George the fourth, intituled An Act to alter and abolish certain Forms of c. 121. Proceedings in the Exchequer and Audit Office relative to Public Accountants, and for making further Provisions for the Purpose of facilitating and expediting the passing of Public Accounts in Great Britain; and to render perpetual and amend an Act passed in the Fifty-fourth Year of His late Majesty, for the effectual Examination of the Accounts of certain Colonial Revenues; and all the powers and provisions now in force of the same acts shall extend and be applicable to the examination, audit, and discharge of the accounts of such sheriffs by the said commissioners (so far as those powers and provisions are applicable thereto, and are not varied by this act).

IX. That every person and persons who now are or who hereafter Sheriffs going shall be sheriff or sheriffs of any county, city, or town within England out of office (except the said counties palatine of Chester, Lancaster, and Durham), (except those shall within two calendar months next after the expiration of his or of Chester, their office, or in case of the death of any sheriff or sheriffs the under Lancaster, and sheriff by him or them appointed shall within two calendar months next Durham) to after the death of such sheriff or sheriffs, transmit to the said commiscounts to counts to comsioners for auditing public accounts a just and true account, under his missioners. or their hand or hands, of all sums received by such sheriff or sheriffs to or for the use of his Majesty, and of all sums paid or claimed by him or them, or on his or their behalf (save such sums as are or have been usually inserted and allowed in the bill of cravings), with all such particulars as shall be needful to explain the same: Provided always, That such under sheriff shall not be personally responsible for any sum or sums received by such deceased sheriff, but that the same shall be answered by the representatives of the said deceased sheriff, or otherwise in due course of law: Provided always, That the sheriff of West-Sheriff of moreland shall yearly, within two calendar months next after the first Westmoreland day of January in every year, transmit or cause to be transmitted to the to transmit like said commissioners for auditing the public accounts a like account under his hand, or the hand of his under sheriff, of all sums paid by yearly. him to or for the use of his Majesty within or during the year of our Lord next preceding, and of all sums paid or claimed by him or on his behalf during the same period (save such sums as are or have been usually inserted in the bill of cravings), with all such particulars as shall be needful to explain the same.

X. That in case it shall be necessary for any such sheriff or sheriffs, or The oath or his or their under sheriff, to make oath or affidavit to any such account, affidavit of sheor any article, matter, or thing relating thereto, such oath or affidavit, riff, may be except when the said commissioners shall require his or their personal taken before a examination before them, shall and may be sworn before any of the judge, commisjudges of his Majesty's superior courts of record at Westminster, or sioner, or mabefore any commissioner for taking affidavits in any of the same courts, gistrate.

No. 111.

No. III.

or before any master or master extraordinary in the high court of chan-3 & 4 W. 4, cery, or before any of his Majesty's justices of the peace.

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XI. That the claim of every sheriff or sheriffs for certain allowances usually called the bill of cravings shall, from and after the passing of Bill of cravings this act, be preferred to the lord high treasurer or the commissioners of his Majesty's treasury for the time being, who, or any three or more of by the treasury. whom, shall and may grant a warrant for the allowance of the same in the account of such sheriff or sheriffs, or for the payment of such sum or sums of money in respect thereof as they shall think reasonable in that behalf.

Quit rents. &c. to be received by commissioners of woods, forests, and land revenues.

XII. And whereas the present mode of managing and collecting certain quit rents and vicecomital or viscontiel rents due to his Majesty, and the present mode of accounting for and paying post-fines on alienation of lands and other hereditaments, have been found disadvantageous to the public service, and inconvenient and troublesome to sheriffs; for remedy whereof be it enacted, That from and after the tenth day of October next no sheriff or sheriffs shall receive or shall be chargeable with the collection and receipt of quit rents, vicecomital or viscontiel rents, and other rents or payments issuing out of or payable to his Majesty in respect of any honors, manors, lands, tenements, or hereditaments in England or Wales, but the same (except such as shall be released pursuant to the provision next herein-after contained) shall hereafter be considered as part and parcel of the land revenue of the crown, and shall be under the care, management, and direction of his Majesty's commissioners of woods, forests, and land revenue, who shall have and exercise the same powers and authorities for collecting and enforcing the payment thereof as are given to or vested in them for collecting and enforcing payment of any other part of his Majesty's land revenue by any act or acts now in force concerning the same.

Power to treasury to release certain rents.

XIII. And whereas many of the said rents are very ancient, and have become obsolete, and it is not known out of or from what hereditaments and premises the same are issuing and payable, so that payment thereof cannot be enforced; be it therefore enacted, That it shall be lawful for the lord high treasurer or the commissioners of his Majesty's treasury, and he and they are hereby empowered, by warrant under his or their hands, to remit, release, and discharge all or any of the same rents, and the arrears thereof, or any part thereof.

Certain parts of repealed.

XIV. That so much of an act passed in the thirty-second year of the 32 G. 2, c. 14, reign of his Majesty king George the second, intituled An Act for the more regular and easy collecting, accounting for, and paying of post-fines which shall be due to the crown, and for the ease of sheriffs in respect of the same, as requires the receiver of pre-fines at the alienation office to become bound by recognizance to pay, or to pay to any sheriff on producing his quietus, the sum total of the post-fines mentioned in such quietus, and as requires such receiver to become in like manner bound to pay, or to pay unto all and every the lords of liberties, proprietors and grantees of post fines under the crown, or to their lawful bailiffs or attorney, on producing the respective schedules of the foreign apposer or clerk of the estreats of the court of exchequer, the sums of money in such schedules contained, be and the same is hereby repealed.

Sheriffs not to be chargeable with pre-fines or post-fines.

XV. That no sheriffs of any county, city, or town within England and Wales shall from henceforth receive or be charged or chargeable with any fine or fines usually called pre-fines and post-fines, payable on alienation of lands or other hereditaments, but the same fines shall be received by the said receiver general of alienation fines, who shall pay and apply the same to such person or persons, in such sums, and in such manner as the lord high treasurer or the commissioners of his majesty's treasury shall, by warrant under his or their hands, order or direct, except as to any such fine or fines, sum or sums of money, as shall or may be ordered to be paid by any order of his Majesty's court of exchequer in pursuance of the provision herein-after contained.

XVI. Provided always, That nothing herein contained shall extend to the pre-fines and post-fines arising within the county palatine of Lan- 3 & 4 W. 4, caster, which last-mentioned pre-fines and post-fines shall be received and accounted for in like manner as hath heretofore been accustomed.

XVII. That for the better information of all persons interested in or Not to extend who may claim title to the fines last before mentioned, or any of them, to the county the receiver general of alienation fines shall provide and keep books, in palatine of Lanin which he shall, in the English language, in a common and legible caster. hand and character, and as to sums and dates in words at length, enter Receiver geneand keep a true and full account of every pre and post fine received by ral to keep him, and in what town, parish, or place the premises are situate in re-books, with spect of which the same fine or fines shall have been paid or received; liberty of inall which books shall at all seasonable times be open to the inspection spection to and examination of all and every body corporate or politic, person and persons entitled persons, claiming to be entitled to or interested in the same fines or any to fines. of them, and his and their bailiff or bailiffs, agent or agents

XVIII. That it shall be lawful for the lord high treasurer or any three Treasury may of the commissioners of his Majesty's treasury, by warrant under his or order payment their hand, from time to time to order and direct the said receiver to parties engeneral to pay such of the same fines, or any of them, or any part thereof, titled. to any body politic or corporate, person or persons, entitled to the same, or to his, her, or their bailiff or bailiffs, agent or agents: Provided always, that notwithstanding such payment, any body politic or corporate, person or persons, aggrieved thereby, shall and may apply by petition in the manner herein-after mentioned against the party or parties to whom such payment shall have been made, to restore or refund the

sums by him or them so received.

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XIX. Provided always, That in case the commissioners of his Majesty's On refusal of treasury shall neglect, refuse, or decline to order the payment of any treasury, fine or fines received by the receiver general of alienation fines which appeal may be shall be claimed by any body coporate or politic, person or persons, or if made to the any party shall be aggrieved by any order for payment made by the court of exchesaid commissioners, it shall be lawful for any such body corporate or quer by petipolitic, person or persons, to apply by petition, in a summary manner, tion. to the lord chief baron and the other barons of his Majesty's court of exchequer, setting forth the nature of the claim or title of the petitioner or petitioners; and thereupon the said barons of his Majesty's court of exchequer shall and they are hereby authorized to proceed to call the proper parties before them, and to hear and determine the matter of the said petition, and to give such costs and to make such order or orders therein as they shall consider just; and in case payment be thereby ordered of any sum or sums of money in respect of such fines, or any of them, by the said receiver general of alienation fines, he is hereby authorized and required to pay the same according to such order or orders.

XX. That from and after the passing of this act the accounts of the Accounts of said receiver general of alienation fines shall be audited and examined receiver geneby the said commissioners appointed or to be appointed for auditing ral to be public accounts under and by virtue of the said herein-before recited acts audited by passed in the twenty-fifth and forty-sixth years of the reign of his late for auditing Majesty king George the third, and the said recited act, passed in the public acford and second years of the reign of his late Majesty king George the counts. fourth; and all the powers and provisions now in force of the same acts, so far as the same are applicable to such accounts of the said receiver general, and not varied by this act, shall extend and be applicable to the accounts of the said receiver general in the same manner and as fully and effectually as if the said receiver general had been named and included in the said last-mentioned acts as a public accountant.

XXI. Provided always, That it shall not be necessary to declare the Accounts when accounts by this act required to be audited by the commissioners of audited to be public accounts by or before the chancellor of the exchequer, but the transmitted to said commissioners of audit shall transmit a statement of every account lords of treaexamined and audited by them under the authority of this act to the lord sury.

c. 99.

No. III.

No. III. **c.** 99.

high treasurer or the commissioners of the treasury for the time being, 3 & 4 W. 4, who, having considered such statement, shall return the same to the commissioners of audit, together with his or their warrant, directing them to make up and pass the account, either conformably to the statement, or with such variations as he or they may deem just and reasonable; and the account having been made up pursuant to such directions, and signed by three or more of the said commissioners for auditing the public accounts, shall remain deposited in the audit office, and shall have the same force and validity, and be as efficient in law for all purposes whatsoever, as if the same had been declared according to the usual course by the chancellor of the exchequer; and the said commissioners shall thereupon, as soon as conveniently may be, cause such or the like certificate thereof, in the nature of a quietus, to be made out and delivered as is now practised by them with regard to declared accounts, and which shall be equally valid and effectual to discharge the accountants, and to all other intents and purposes.

Part of stat. 22 & 23 C. 2, fines, &c. to be certified and estreated into the exchequer twice a year repealed.

XXII. And whereas an act was passed in the twenty-second and twenty-third years of the reign of his late Majesty king Charles the c. 22, requiring second, intituled An Act for the better and more certain recovery of Fines and Forfeitures due to his Majesty, and which act was made perpetual by an act made in the fourth and fifth years of the reign of their late Majesties king William and Queen Mary: And whereas it is expedient that further provision should be made for the speedy and regular return of fines, issues, amerciaments, penalties, forfeited recognizances, and deodands, in certain cases; be it therefore further enacted, That from and after the tenth day of October next so much of the aforesaid act passed in the twenty-second and twenty-third years of the reign of his late Majesty king Charles the second as requires all fines, forfeitures, issues, amerciaments, forfeited recognizances, sum and sums of money paid in lieu and satisfaction of them or any of them, and all other forfeitures whatsoever set, imposed, lost, or forfeited in his Majesty's courts of king's bench, common pleas, or exchequer, or by or before any judge or judges of assize, clerk of the market, or commissioners of sewers, throughout the kingdom of England, to be certified and estreated into the court of exchequer twice in every year yearly, at the times thereby appointed, and also such part of the aforesaid act of their late Majesties king William and Queen Mary as makes perpetual the aforesaid provisions contained in reign of act passed in the twenty-second and twenty-third years of the the said king Charles the second, shall be and are hereby repleated.

Clerk of parliament to reor to commissioners an account of fines set in the house of lords;

XXIII. That the clerk of the parliament shall, within fourteen days next after every session of parliament, make out an account of all and turn to treasury every fines or fine which shall or may be set or imposed, and also of all recognizances ordered to be estreated, by the lords spiritual and temporal in parliament assembled during such preceding session of parliament with the names and residences of the parties, and distinguishing such of the said fines as shall have been received, and transmit the same to the lord high treasurer or to the commissioners of his Majesty's treasury, and also a duplicate thereof to the said commissioners for auditing the public accounts, and also shall, within the time aforesaid, certify and estreat all such fines as shall not have been received by him in and into his Majesty's court of exchequer.

and pay fines received as treasury shall direct.

Clerk of bouse of commons to all recognizances.

XXIV. That all fines which shall be received by the said clerk of the parliament shall be paid by him to such person or persons, at such times and in such manner as the lord high treasurer, or any three of the commissioners of his Majesty's treasury, shall by warrant direct.

XXV. That the clerk of the house of commons shall, within fourteen days next after every session of parliament, make out an account of all make return of recognizances certified by the speaker of the said house or estreated by him into the exchequer, with the names and residences of the parties, and transmit the same to the lord high treasurer, or to the commissioners of his Majesty's treasury, and also a duplicate thereof to the said commissioners for auditing the public accounts.

XXVI. That the king's coroner and attorney of his Majesty's court of king's bench, and the prothonotaries of his Majesty's court of common pleas, and his Majesty's remembrancer of the court of exchequer, and also the masters and prothonotaries of the office of pleas in the same court, respectively, shall on the first day of every term make out an ac- Account of count of all fines, issues, amerciaments, penalties, and recognizances set, fines in king's lost, imposed, or forfeited to or for the use of his Majesty in the said bench, comcourts respectively, and not before estreated, with the names and resi- mon pleas, and dences of the parties, and distinguishing such as shall have been paid, and transmit the same to the commissioners of his Majesty's treasury, and also a duplicate thereof to the said commissioners for auditing the public accounts.

XXVII. That the said coroner and attorney of his Majesty's court of king's bench, the prothonotaries of the court of common pleas, and the master and prothonotaries of the office of pleas, and king's remembrancer, respectively, shall on the first day of every term, and at such other time or times as they shall respectively be ordered or required so to do by any order of the said courts respectively, or by the order of any judge or baron thereof, certify and estreat all such fines, issues, amerciaments, penalties, and recognizances set, lost, imposed, or forfeited as aforesaid, and not received by them respectively, in and into the said court

of exchequer.

XXVIII. That all such fines, issues, amerciaments, penalties, and Fines, &c. rerecognizances set, lost, imposed, or forfeited as aforesaid, which shall be ceived to be received by any of the said officers of the said courts of king's bench, paid as treacommon pleas, or exchequer, shall be paid by them respectively to such sury shall officer or officers or to such person or persons entitled thereto, and at direct. such times and in such manner as the lord high treasurer or the commissioners of his Majesty's treasury shall by warrant under his or their

hands direct.

XXIX. That an account in writing of all fines, issues, amerciaments, Account of penalties, and recognizances set, lost, imposed, or forfeited to or for fines by clerks the use of his Majesty by or before any judge or judges of assize, cherk of assize, comof the market, or commissioners of sewers, throughout the kingdom of missioners of England, and also all deodands found or forfeited to or for the use of sewers, clerks his Majesty throughout the same kingdom, shall, within fourteen days of the market, next after any such fines, issues, amerciaments, penalties, recognizances, and of deoor deodands shall respectively be set, lost, imposed, forfeited, found, transmitted to or accrue, be made out by the clerk of assize, clerk of the market, com-treasury and missioners of sewers, and coroners, or other person or persons respect to commistively to whom it doth appertain or belong to make estreat thereof, with sioners of audit. the names and residences of the parties liable to make payment thereof respectively, and distinguishing such as shall have been paid or received; and two copies of such account when so made out shall be signed by the person or persons so required to make out the same, who shall, within the time last aforesaid, transmit one copy thereof to the commissioners of his Majesty's treasury, and another copy thereof to the commissioners for auditing the public accounts; and the same fines, issues, amerciaments, penalties, recognizances, and deodands shall also within the time last aforesaid be duly certified and estreated by such officers and persons respectively in and into the said court of exchequer; and all sum or sums of money which shall have been received for or on account of any such fines, issues, amerciaments, penalties, forfeitures, recognizances, or deodands shall be paid over by the parties respectively receiving the same unto the sheriff or sheriffs of the county, city, or town wherein the same shall have been set, lost, imposed, forfeited, found, or accrued, to the intent that such sheriff or sheriffs may be charged therewith, and duly account for the same.

XXX. Provided always, That in all cases where any fines, issues, re- Where fines, cognizances, penalties, forfeitures, or deodands are required by any act &c. are now or acts now in force to be estreated, upon oath, in or into the court of estreated upon exchequer, such oath shall and may be sworn and taken before a judge oath, such oath

No. III. 3 & 4 W. 4, c. 99.

exchequer to be transmitted to treasury and to commissioners of audit.

Unpaid fines to be estreated.

may be taken before a judge, &c.

No. III. c. 99.

of any of his Majesty's superior courts of record at Westminster, or 3 & 4 W. 4, before any commissioners for taking affidavits in the same courts, or before any master extraordinary in the high court of chancery, or before any of his Majesty's justices of the peace; and every such estreat shall be transmitted to and filed with his Majesty's remembrancer of the said court of exchequer, and received and entered by him without fee or re-

Accounts of estreats to be transmitted to commissioners of audit.

XXXI. That his Majesty's remembrancer do and shall, on or before the first seal day next after every term, make out an account in writing of all fines, issues, amerciaments, penalties, forfeited recognizances and treasury and to deodands, estreated during the preceding vacation and term, and also of all returns within the same period of sheriffs to process issued for the purpose of levying any estreated fines, issues, amerciaments, penalties, forfeited recognizances, and deodands, and shall, within the time last aforesaid, transmit and send one copy of such account to the commissioners of his Majesty's treasury, and another copy thereof to the said commissioners for auditing the public accounts.

Process to be issued every

XXXII. That his Majesty's said remembrancer shall, on the first scal day next after every term, and also at any other time or times when reterm, or oftener, quired by the court of exchequer, or by the fiat or order of any baron to levy estreats. thereof, make out and issue, or cause to be made out and issued, according to the practice of the court of exchequer, and without fee or reward, process for duly levying and enforcing payment of all such fines, issues, amerciaments, penalties, forfeited recognizances, and deodands estreated as aforesaid (except as herein-after mentioned), which shall not theretofore have been levied, recovered, vacated, or discharged, and so from time to time until the same shall be fully paid or levied, vacated or discharged.

Power to treasury to stay process, and discharge the fines, &c.

XXXIII. That it shall be lawful for the lord high treasurer or the commissioners of his Majesty's treasury, and he or they are hereby authorized, by warrant under his or their hands directed to the proper officer or officers, to stay the issuing or execution of all or any process touching any of the matters set, lost, imposed, forfeited, or estreated as aforesaid, and to vacate and discharge such fines, issues, amerciaments, penalties, forfeited recognizances, or deodands, or any of them, or any part thereof; provided that nothing in this clause contained shall extend to enable the said lord high treasurer or the commissioners of his Majesty's treasury to remit or restore any fine, issue, amerciaments, penalty, forfeited recognizance, or deodand to which any body corporate or politic, person or persons, shall or may be entitled, which shall have been actually levied by or paid to them.

Power to persons entitled to any fines, &c. to inspect account.

XXXIV. That all bodies corporate and politic, and all and every other person or persons, having or claiming title to any fines, issues, amerciaments, penalties, forfeited recognizances, deodands, sum or sums of money contained in any account transmitted by virtue of this act to the commissioners for auditing public accounts, shall and may, by themselves, or their, his, or her bailiff, steward, or agent, at all seasonable times, have access to the said accounts, and take minutes or extracts

The treasury ment of fines, &c.

XXXV. That it shall be lawful for the lord high treasurer, or any may order pay- three or more of the commissioners of his Majesty's treasury, from time to time to order and direct payment, by warrant under his or their hand of the said fines, issues, amerciaments, penalties, forfeited recognizances, deodands, sum and sums or money, or any of them, to any body corporate, or politic, person or persons, entitled to the same, or to their, his, or her bailiffs, steward, or agent: Provided always, that notwithstanding such payment any body politic or corporate, person or persons, aggrieved thereby, shall and may apply by petition in the manner herein-after mentioned against the party or parties to whom such payment shall have been made, to restore or refund the sum or sums by him or them so received.

If treasury ret claims, the XXXVI. Provided always, That in case the commissioners of his

Majesty's treasury shall neglect, refuse, or decline to order the payment of any fines, issues, amerciaments, penalties, forfeited recognizances, 3 & 4 W. 4, deodands, sum or sums of money so claimed as aforesaid, or if any party shall be aggrieved by any order made by the said commissioners, it shall be lawful for any such body or bodies corporate or politic, person or party may appersons, to apply, in a summary way, by petition to the lord chief baron peal to the and the other barons of his Majesty's court of exchequer, setting forth court of exchethe nature of the claim or title of the petitioners or petitioner; and there-quer. upon the said barons of his Majesty's court of exchequer shall and they are hereby authorized to proceed to call the proper parties before them, and to hear and determine the matter of the said petition, and to give such costs and to make such order and orders therein as they shall deem just.

No. III.

XXXVII. Provided also, That nothing herein contained shall extend Act not to preor be prejudicial to the rights, privileges, and remedies of any bodies po-judice rights litic or corporate, or of any lord of any manor, liberty, or franchise what- of corporate soever, or of any person or persons, claiming title under or by virtue of bodies, &c. any grant from the crown, any thing herein contained to the contrary

notwithstanding.

XXXVIII. Provided always, That nothing herein contained shall ex- This act not to tend to prejudice or affect the power, jurisdiction, or authority of the affect jurisdiclord chief baron and the other barons of his Majesty's court of exche-tion of court of quer as to the said fines, issues, amerciaments, penalties, forfeited re-exchequer.

cognizances, and estreats, or any process or proceedings thereon.

XXXIX. Provided always, That nothing herein contained shall extend Act not to or be prejudicial to the rights, liberties, or privileges of the king's most affect rights of excellent Majesty, his heirs and successors, in right of his duchy or county palacounty palatine of Lancaster or duchy of Cornwall, or the duke of Corn-tines or of city wall when there shall be a duke of Cornwall or to the rights, liberties, of London. or privileges, of the prince bishop of Durham and the county palatinate of Durham, or to the rights, customs, liberties, privileges, charter or charters of the city of London, but that the same rights and privileges shall be enjoyed and used as fully to all intents and purposes as before the passing of this act.

XL. Provided also, That nothing herein contained shall extend to or Rights of the prejudice the rights, liberties, and privileges of the city and county of city of Chester the city of Chester, but that the sheriffs thereof shall and may account saved. and obtain their quietus in like manner as hath heretofore been accustomed.

XLI. And whereas many of the duties and much of the business of Lordtreasurer's the lord treasurer's remembrancer and clerk of the pipe, and the offices remembrancer connected therewith, in his Majesty's court of exchequer, have been and other transferred to other offices, or have ceased, or on the passing of this act offices in exwill cease; and other duties have become obsolete; and it is expedient chequer abothat the said offices and other offices connected therewith should be abolished, and the duties thereof remaining hereafter to be performed be transferred to and performed by his Majesty's remembrancer of the said court; be it therefore enacted, That from and after the tenth day of October next the several offices in his Majesty's court of exchequer hereafter mentioned; namely, of lord treasurer's remembrancer, together with the filacer, secondaries, deputy remembrancer, and sworn and other clerks and bagbearer belonging thereto; of clerk of the pipe, deputy clerk of the pipe, controller and deputy controller of the pipe, secondaries, attornies, or sworn and other clerks and bagbearer in the said office of the pipe; of clerk of the estreats; of surveyor of the green wax; of the foreign apposer and deputy foreign apposer, and of clerk of the nichills, shall wholly cease and determine.

XLII. And whereas it may be reasonable and fit that compensation Compensation should be made to the persons now holding the offices herein-before to officers. mentioned and hereby abolished, and to the other officers of the said court whose lawful fees and emoluments shall be taken away or diminished by this act, for the loss thereof; be it therefore enacted, That it

No. III. c. 99.

shall be lawful for the lord high treasurer or commissioners of his Ma-3 & 4 W. 4, jesty's treasury for the time being, or any three or more of them, by warrant under their hands, to order and direct that such annual or other compensation shall be made to the persons now holding the offices hereby abolished, and to the other officers of the said court of exchequer whose lawful fees and emoluments are diminished by this act, for any loss thereof which they will respectively sustain by reason of the provisions of this act, as to the said commissioners of the treasury in their discretion shall seem just and reasonable; and all such compensations, whether annual or in gross, shall be issued and paid and payable out of and charged and chargeable upon the consolidated fund of the united kingdom of Great Britain and Ireland: Provided always, That an account of all such compensations shall within fourteen days next after the same shall be so granted be laid upon the table of the House of Commons, if parliament shall be then assembled, or if parliament shall not be then assembled, then within fourteen days after the meeting of parliament then next following.

Power to treathe commissioners for compensation.

1 W. 4, c. 58.

1 & 2 W. 4, c. 35.

Claimants to be c. 58, and 1 & 2 W. 4, c. 35.

Records, &c. to be transferred to the brancer, subject to order.

Process and ings by King's remembrancer.

XLIII. That for the better enabling the commissioners of his Majesty's sury to refer to treasury to form a correct judgment of the nature and amount of the compensations which it may be reasonable and proper to make to the said officers whose fees may be taken away or diminished as aforesaid, for the loss thereof, it shall and may be lawful for the commissioners of his Majesty's treasury, if they shall see fit, from time to time to refer all or any claims for such compensation to the examination and consideration of the commissioners appointed or to be appointed under and by virtue of an act passed in the first year of his present Majesty's reign, intituled An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law, and also by virtue of an act passed in the first and second years of the reign of his present Majesty, intituled An Act to explain and amend an Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law; and such last-mentioned commissioners, in all such cases so referred to them, are hereby authorized and required to inquire and certify, in the manner directed by the said last-mentioned acts. the gross and net annual value of the lawful fees and emoluments of every such officer or person whose claim to compensation shall be referred to them as aforesaid, so that the account of such fees and emoluments be taken in respect of or for ten years, or such other time as the case may require, next preceding the first day of January one thousand eight hundred and thirty-three, instead of preceding the twenty-fourth day of May one thousand eight hundred and thirty.

XLIV. That the officers and persons claiming compensation under liable to provi- and by virtue of this act shall, for the purpose of such inquiry and cersions of 1 W. 4, tificate as aforesaid, be subject and liable to all such enactments, rules, penalties, matters, and things as or to which the persons claiming compensation under and by virtue of the said two last recited acts are thereby made subject and liable.

XLV. That the several records, books, and other public documents of and concerning the duties and business of the said offices so abolished as aforesaid shall upon or immediately after the said tenth day of King's remem- October be delivered by the several officers or persons having custody of the same into the hands and care of the king's remembrancer of the said court of exchequer, to be by him preserved and kept; subject nevertheless to such rules, orders, and regulations as the lord chief baron and the other barons of the court of exchequer, and the lord high treasurer. or any three of the commissioners of his Majesty's treasury, shall or may from time to time ordain or make touching the same.

XLVI. That from and after the said tenth day of October all process future proceed- and other proceedings, charges, discharges, estreats, matters, and things usually issued, done, had, received, filed, recorded, or taken by the officers whose offices are hereby abolished, or any of them, which shall

No. III.

c. 99.

from thenceforth be by law required or needful to be issued, done, had, received, filed, recorded, or taken, shall and may be issued, done, had, 3 & 4 W. 4, received, filed, recorded and taken by his Majesty's remembrancer of the said court of exchequer, or by the officers in his office by and under his direction, according to the course and practice thereof, as fully and effectually to all intents, constructions, and purposes as the same might or could have been issued, done, had, or taken by the said officers whose offices are hereby abolished before the passing of this act; subject nevertheless to all such rules, orders, and regulations as shall or may be made from time to time for regulating or discontinuing the same by the lord chief baron and the other barons of his Majesty's court of exchequer, and which they are hereby authorized to make and ordain accordingly: Provided always, That the accounts of his Majesty's revenue of excise shall be enrolled once only by or in the said office of his Majesty's remembrancer.

XLVII. That searches may be made, and copies or extracts of and Searches may from the said records, books, and documents shall and may be had and be made and taken, at such times and in such manner and upon payment of such copies taken, fees as the lord chief baron and the other barons of the said court of which shall be exchequer, together with the lord high treasurer or the commissioners as available as of his Majesty's treasury, shall or may direct; and all such copies or heretofore. extracts signed and authenticated by his Majesty's remembrancer, or such other person or persons as shall or may be appointed by him for that purpose, shall be as available in evidence, and as valid and effectual, to all intents and purposes, as the same would by law have been if the same had been signed, authenticated, and given before the passing of this act by the officers whose offices are hereby abolished, or any of

them.

SCHEDULE to which this act refers.

At the court at day of excellent Majesty in council.

present, the king's most

To A. B. of, et cetera.

Whereas his Majesty was this day pleased, by and with the advice of his privy council, to nominate and appoint you for and to be sheriff of during his Majesty's pleasure: the county of These are therefore to require you to take the custody and charge of the said county, and duly to perform the duties of sheriff thereof during his Majesty's pleasure; and whereof you are duly to answer according to law.

Dated this

day of By his Majesty's command,

C. D.

PART IV.

CLASS XV.

WALES, COUNTIES PALATINE, AND LIBERTIES.

[For the 1 W. 4, c. 70, abolishing the jurisdiction of the courts of great session, both at law and in equity, in Wales, and also of the court of great session and court of exchequer of the county palatine of Chester, see ante, Part IV., Class I., p. 388.

For the clauses of the above act relating to the admission of the attorneys belonging to the courts so abolished in the courts of Westminster,

see ante, Part IV., Class II., p. 419.]

[No. I.] 4 & 5 W. IV. c. 62.—An Act for improving the Practice and Proceedings in the Court of Common Pleas of the County Palatine of Lancaster. [13th August 1834.]

WHEREAS various alterations and improvements have recently been made, by the authority of parliament and otherwise, in the practice and proceedings in the superior courts of common law at Westminster; and it is expedient that certain alterations and improvements should be effected in the practice and proceedings of the court of common pleas at Lancaster: Be it therefore enacted, &c., That the process in all personal process for the actions hereafter to be commenced in the court of common pleas at Lancaster, where it is not intended to hold the defendant to special bail, shall, whether the action be brought by or against any person entitled to the privilege of peerage or of parliament, or of the said court, or of any other court, or to any other privilege, or by or against any other person, be according to the form contained in the schedule to this act annexed marked number 1, and shall be called a writ of summons; and in every such writ, and copy thereof, the place and residence or supposed residence of the party defendant, or wherein the defendant shall be or shall be supposed to be, shall be mentioned; and such writ shall be issued by the prothonotary of the said court, or his deputy, and shall be served in the manner heretofore used in the county palatine of Lancaster, and not elsewhere, and the person serving the same shall and is hereby required to indorse on the writ the day of the month and week of the service thereof.

Mode of appearance to cess.

Serviceable

commence-

ment of per-

sonal actions.

II. That the mode of appearance to every such writ or under the authority of this act shall be by delivering to the said prothonotary or serviceable pro- his deputy a memorandum in writing, dated on the day of delivery thereof, according to the form contained in the said schedule and marked

Appearance may be enforced by a writ of distringas, in case a not be served with the writ of summions.

III. That in case it shall be made appear by affidavit to the satisfaction of the said court or one of the judges thereof that any defendant has not been personally served with any such writ of summons as herein-before mentioned, and has not, according to the exigency thereof, appeared to the action, and cannot be compelled so to do without some more effidefendant can-cacious process, then and in any such case it shall be lawful for such court or judge, by rule or order, to order a writ of distringas to be issued, directed to the sheriff of the said county of Lancaster (or to any other officer to be named in such rule or order), to compel the appearance of such defendant, which writ of distringas shall be in the form and with the notice subscribed thereto mentioned in the schedule to this act marked number 3, which writ of distringas and notice, or a copy thereof, shall be served on such defendant, if he can be met with, or if not, shall be left at the place where such distringas shall be executed; and a true copy of every such writ and notice shall be delivered together

therewith to the sheriff or other officer to whom such writ shall be directed, and every such writ shall be made returnable on a day certain, to be named therein, not being less than fifteen days after the teste thereof; and if such writ of distringas shall be returned non est inventus and nulla bona, and the party issuing out such writ shall not intend to proceed to outlawry or waiver, according to the authority herein-after given, and any defendant against whom such writ of distringas issued shall not appear at or within eight days inclusive after the return thereof, and it shall be made appear by affidavit, to the satisfaction of the said court or one of the judges thereof, that due and proper means were taken and used to serve and execute such writ of distringas, it shall be lawful for such court or judge to authorize the party suing out such writ to enter an appearance for such defendant, and to proceed thereon to judgment and execution.

No. I. 4 & 5 W. 4, c. 62.

IV. That in all actions wherein it shall be intended to arrest and hold Bailable proany person to special bail who may not be in custody of the keeper of cess for the the gaol of the said county, the process shall be by writ of capias accord-commenceing to the form contained in the said schedule and marked Number 4; ment of perand so many copies of such process, together with the memorandum or sonal actions. notice subscribed thereto, and all indorsements thereon as there may be persons intended to be arrested thereon or served therewith, shall be delivered therewith to the sheriff or other officer or person to whom the same may be directed, or who may have the execution and return thereof and who shall, upon or forthwith after the execution of such process, cause one such copy to be delivered to every person upon whom such process shall be executed by him, whether by service or arrest, and shall indorse on such writ the true day of the execution thereof, whether by service or arrest; and if any defendant be taken or charged in custody upon any such process, and imprisoned for want of sureties for his appearance thereto, the plaintiff in such process may, after the detainer or arrest of such defendant, declare against such defendant, and proceed thereon according to the practice of the said court, as against a defendant in custody on mesne process; Provided always, that it shall be lawful for the plaintiff or his attorney to order the sheriff or other officer or person to whom such writ shall be directed to arrest one or more only of the defendants therein named, and to serve a copy thereof on one or more of the others, which order shall be duly obeyed by such sheriff or other officer or person; and such service shall be of the same force and effect as the service of the writ of summons herein-before mentioned, and no other.

V. That upon the return of non est inventus as to any defendant Proceedings to against whom such writ of capais shall have been issued, and also upon the outlawry. return of non est inventus and nulla bona as to any defendant against whom such writ of distringas as herein-before mentioned shall have issued whether such writ of capias or distringas shall have issued against such defendant only, or against such defendant and any other person or persons, it shall be lawful, until otherwise provided for, to proceed to outlaw or waive such defendant by writs of exigi facias and proclamation, and otherwise, in such and the same manner as may now be lawfully done upon the return of non est inventus to a pluries writ of capias ad respondendum issued after an original writ: Provided always, that every such writ of exigent, proclamation, and other writ subsequent to the writ of capais or distringas shall be made returnable on a day certain in term; and every such first writ of exigent and proclamation shall bear teste on the day of the return of the writ of capias or distringas, and every subsequent writ of exigent and proclamation shall bear test on the day of the return of the next preceding writ; and no such writ of capais or distringas shall be sufficient for the purpose of outlawry or waiver if the same be returned within less than fifteen days after the delivery thereof to the sheriff or other officer to whom the same shall be directed.

VI. That after judgment given in any action commenced by writ of Proceedings to outlawry may M M

No. I. 4 & 5 W. 4, c. 62.

be had after judgment given under the authority of this

Mode of detaining a prisoner in gaol.

Duration of writs.

Proviso as to tations.

Proceedings on executed at certain times.

Proviso for Sunday, &c.

Indorsement on writs of the name, &c. of party suing.

summons or capies, under the authority of this act, proceedings to outlawry or waiver may be had and taken, and judgment of outlawry or waiver given, in such manner and in such cases as may now be lawfully done after judgment in an action commenced by original writ: Provided always, that every outlawry or waiver had under the authority of this act shall and may be vacated or set aside by writ of error or motion, in like manner as outlawry or waiver founded on an original writ may now be vacated or set aside.

VII. That when it shall be intended to detain in any such action any person being in the custody of the keeper of the goal for the said county of Lancaster, the process of detainer shall be according to the form of the writ of detainer contained in the said schedule and marked Number 5, and a copy of such process, and of all indorsements thereon, shall be delivered, together with such process, to the keeper of the said gaol, who shall forthwith serve such copy upon the defendant personally, or leave the same at his room, and the declaration thereupon shall and may allege the prisoner to be in custody in the said gaol; and the subsequent proceedings shall be as against prisoners in custody upon mesne process, according to the practice of the said court, unless otherwise ordered by

some rule to be made by the judges of the said court.

VIII. That no writ issued as aforesaid by authority of this act shall be in force for more than four calendar months from the day of the date thereof, including the day of such date; but every writ of summons and capias may be continued by alias and pluries, as the case may require, if any defendant therein named may not have been arrested thereon or served therewith: Provided always, that no first writ shall be available to statute of limi- prevent the operation of any statute whereby the time for the commencement of the action may be limited unless the defendant shall be arrested thereon or served therewith, or proceedings to or towards outlawry shall be had thereupon, or unless such writ, and every writ (if any) issued in continuation of a preceding writ, shall be returned non est inventus, and entered of record within one calendar month next after the expiration thereof, including the day of such expiration, and unless every writ issued in continuation of a preceding writ shall be issued within one such calendar month after the expiration of the preceding writ, and shall contain a memorandum indorsed thereon or subscribed thereto. specifying the day of the date of the first writ, and return to be made, in bailable process by the sheriff or other officer to whom the writ shall be directed, or his successor in office, and, in process not bailable, by the plaintiff or his attorney suing out the same, as the case may be.

IX. That when any writ of summons, capias, or detainer issued by writs served or authority of this act shall be served or executed, all necessary proceedings to judgment and execution may be had thereon, without delay, at the expiration of eight days from the service or execution thereof: Provided always, that if the last of such eight day shall in any case happen to fall on a Sunday, Christmas-day, Good Friday, or any day appointed for a public fast or thanksgiving, in any of such cases the following day

shall be considered as the last of such eight days.

X. That upon every writ to be issued as aforesaid by authority of this act the name or firm and the place of business or residence of the attorney or attornies issuing such writ shall be indorsed thereon, and where the attorney or such attorney or attornies shall be agents only, then there shall be further indorsed thereon the name or firm and place of business or residence of the principal attorney or attornies, but in case no attorney or attornies shall be employed for that purpose, then a memorandum shall be indorsed thereon, expressing that the same has been sued out by the plaintiff in person, mentioning the city, town, or parish, and also the name of the hamlet, street, and number of the house of such pluintiff's residence, if any such there be.

Service of write corporations, nd on inha-

XI. That every such writ of summons issued against a corporation of summons on aggregate may be served on the mayor or other head officer, or on the town clerk, clerk, treasurer, or secretary of such corporation; and every such writ issued against the inhabitants of a hundred or other like dis-

trict may be served on the high constable thereof, or any one of the high constables thereof; and every such writ issued against the inhabitants 4 & 5 W. 4, of the county of Lancaster, or the inhabitants of any franchise, liberty, town, or place, not being part of a hundred or other like district, on some peace officer thereof. bitants of hundreds and towns.

XII. That all such proceedings as are mentioned in any writ, notice, Proceedings in or warning to be issued as aforesaid under this act shall and may be had default of apand taken in default of a defendant's appearance or putting in special pearance. bail, as the case may be,

XIII. That every attorney whose name shall be indorsed on any writ Attorney to deissued as aforesaid by authority of this act shall, on demand in writing clare whether made by or on behalf of any defendant, declare forthwith whether such writ issued by writ has been issued by him, or with his authority or privity, and if he his authority shall answer in the affirmative, then he shall also, in case the said and name, &c. court, or one of the judges thereof, shall by rule or order so order and of his client, if direct, declare in writing, within a time to be allowed by such court or ordered; if judge the profession occupation or quality and place of abode of the writ not issued judge, the profession, occupation, or quality, and place of abode of the by authority of plaintiff, on pain of being guilty of a contempt of the said court; and if the attorney, such attorney shall declare that the writ was not issued by him, or with defendant may his authority or privity, the said court, or any judge thereof, shall and be discharged. may, if it shall appear reasonable so to do, make an order for the immediate discharge of any defendant or defendants who may have been arrested on any such writ, on entering a common appearance.

XIV. Provided always, That nothing in this act contained shall sub- Proviso for ject any person to arrest, outlawry, or waiver, who, by reason of any persons priviprivilege, usage, or otherwise, may now by law be exempt therefrom, or leged from shall extend to any cause removed into the said court by writ of pone arrest. loquelam, accedas ad curiam, certiorari, recordari facias loquelam, ha-

beas corpus, or otherwise.

XV. That from the time when this act shall commence and take effect As to write for the writs herein-before authorized shall be the only writs for the com- commencement mencement of personal actions in the said court in the cases to which of personal

such writs are appplicable.

XVI. That it shall be lawful for the parties in any action depending Power to state or to be depending in the said court of common pleas at Lancaster, after a special case issue joined by consent, and by order of one of the judges of the same without procourt, to state the facts of the case in the form of a special case for the ceeding to trial. opinion of the said court, or of one of the superior courts of common law at Westminster, and to agree that a judgment shall be entered for the plaintiff or defendant by confession or of nolle prosequi, immediately after the decision of the case, or otherwise, as the court before which such case shall be heard may think fit, and judgment shall be entered

accordingly.

XVII. That it shall and may be lawful for the judges of the said court Judges may of common pleas at Lancaster for the time being, or any two of them, make rules for from time to time to make such orders, rules, and regulations for alter- altering and ing and regulating the mode of pleading in that court, and for altering regulating the the mode of entering and transcribing pleadings, judgments, and other mode of pleadproceedings in actions at law therein, and touching the voluntary admission, upon any application for that purpose at a reasonable time before the trial of any action of one party to the other of all such written or the trial of any action of one party to the other, of all such written or touching the printed documents, or copies of documents, as are intended to be offered admission of in evidence on the said trial by the party requiring such admission, and documents. touching the inspection thereof before such admission is made, and touching the costs which may be incurred by the proof of such documents or copies on the trial of the cause, in case of the omitting to apply for such admission, or the not producing of such documents or copies for the purpose of obtaining admission thereof, or of the refusal to make such admission, as the case may be, and as to the said judges of the said court for the time being, or any two of them, shall seem meet.

XVIII. That all writs of inquiry of damages hereafter to be issued by Writs of inthe court of common pleas at Lancaster, under and by virtue of the sta-quiry under the

No. I. 4 & 5 W. 4, c. 62.

statute 8 & 9 unless otherwise ordered.

tute-passed in the session of parliament held in the eighth and ninth years of the reign of king William the third, intituled An Act for the better preventing frivolous and vexatious Suits, shall, unless the said court, or one of the judges thereof, shall otherwise order, direct the sheriff of the said county of Lancaster, to summon a jury to appear before him, W. 3, c. 11, to instead of the justices or justice of assize of and for the said county, to be executed be- inquire of the truth of the breaches suggested, and assess the damages fore the sheriff, that the plaintiff shall have sustained thereby, and shall command the said sheriff to make return thereof to the said court on a day certain in such writ to be mentioned, and such proceedings shall be had after the return of such writ as are in the said statute in that behalf mentioned, in like manner as if such writ had been executed before a justice of assize or nisi prius.

Return of other

XIX. That every other writ of inquiry to be issued by the said court writs of inquiry. of common pleas at Lancaster shall be made returnable on any day certain to be named in such writ.

Power to direct issues joined in certain acbefore the sheriff or any judge.

XX. That in any action depending in the said court of common pleas at Lancaster for any debt or demand in which the sum sought to be recovered and indorsed on the writ of summons shall not exceed twenty tions to be tried pounds it shall be lawful for the said court or any judge thereof, if such court or judge shall be satisfied that the trial of the said action will not involve any difficult question either of law or fact, and such court or judge shall think fit so to do, to order and direct that the issue or issues joined shall be tried before the sheriff of the said county palatine of Lancaster, or any judge of any court of record for the recovery of debt in such county, and for that purpose a writ shall issue, directed to such sheriff or judge, commanding him to try such issue or issues by a jury to be summoned by him; and to return such writ, with the finding of the jury thereon indorsed, at a day certain to be named in such writ, and thereupon such sheriff or judge shall summon a jury, and shall proceed to try such issue or issues.

Upon the return of inquiry or writ for trial of issues, judgment may be signed, unless, &c.

XXI. That at the return of every writ of inquiry, or writ for the trial of such issue or issues as aforesaid, costs shall be taxed, judgment signed, and execution issued forthwith, unless the sheriff or his deputy before whom such writ of inquiry may be executed, or such sheriff, deputy, or judge before whom such trial shall be had, shall certify, under his hand, upon such writ, that judgment ought not to be signed until the defendant shall have had an opportunity to apply to the said court of common pleas at Lancaster, or one of the judges thereof, for a new inquiry or trial, or the said court, or one of the judges thereof, shall think fit to order that judgment or execution shall be stayed till a day to be named in such order; and the verdict of such jury on the trial of such issue or issues shall be as valid and of the like force as a verdict of a jury at the assizes; and the sheriff or his deputy or judge presiding at the trial of such issue or issues shall have the like powers, with respect to the amendment on such trial, as are given to judges at nisi prius by an act passed in the third and fourth years of the reign of his present Majesty, intituled An Act for the further Amendment of the Law, and the better advancement of Justice.

3 & 4 W. 4. c. 42.

Judgment may be vacated. ed, and new trial granted.

XXII. Provided always, That notwithstanding any judgment signed or execution issued as aforesaid by virtue of this act, it shall be lawful execution stay- for the said court of common pleas at Lancaster to order such judgment to be vacated and execution to be stayed or set aside, and to enter an arrest of judgment, or grant a new trial or new writ of inquiry, as justice may appear to require; and thereupon the party affected by such writ of execution shall be restored to all that he may have lost thereby in such manner as upon the reversal of a judgment by writ of error or otherwise, as the court may think fit to direct.

Defendant to be allowed to

XXIII. That it shall be lawful for the defendant in all personal actions, except actions for assault and battery, false imprisonment, libel, pay money into slander, malicious arrest or prosecution, criminal conversation, or deet in certain bauching of the plaintiff's daughter or servant, by leave of the said court of common pleas at Lancaster or one of the judges thereof, to pay

No. I.

c. 62.

into court a sum of money by way of compensation or amends, in such manner, and under such regulations as to the payment of costs and the 4 & 5 W. 4, form of pleading, as the judges of the said court shall, by any rules or

orders by them to be from time to time made, order and direct.

XXIV. And whereas it would tend to further the administration of Power to apjustice in the said court of common pleas at Lancaster if more of point additional the judges of the superior courts at Westminster were appointed junges. justices for all manner of pleas within the said county palatine of Lancaster; be it therefore enacted, That it shall and may be lawful to and for the king's most excellent Majesty, in right of his duchy and county palatine of Lancaster, from time to time to nominate and appoint all or any of the judges of the superior courts at Westminster to be judges of the court of common pleas for the county palatine of Lancaster: Provided nevertheless, that the judges before whom the assizes for the said county palatine of Lancaster shall from time to time be held, and their respective officers, shall alone be entitled to the fees and emoluments heretofore received by the judges of the said county palatine and their officers.

XXV. That the judges of the superior courts of common law at West- Judges of suminster, or any eight or more of them, of whom the chief of each of the perior courts at said courts shall be three, may, by any rule or order to be from time to Westminster time after this act shall take effect, make such regulations as to the fees may regulate to be charged by all and every or any of the officers of the said court of fees to be taken common pleas at Lancaster and the attornies thereof as to them may in court of comseem expedient, and to alter the same when and as it may seem fit mon pleas at and proper, so as such fees shall not exceed the fees now received; and all such regulations shall be binding and obligatory on the said court of common pleas at Lancaster, and all the officers and attornies of the said

court. XXVI. That it shall be lawful for any party in any action now de-Rules for new pending or hereafter to be depending in the said court of common pleas trials to be at Lancaster to apply by motion to any one of the superior courts at moved before Westminster sitting in Banco, within such period of time after the trial any of the as motions of the like kind shall from time to time be permitted to be courts at Westmade in the said superior court, for a rule to show cause why a new minster. trial shall not be granted or nonsuit set aside, and a new trial had or a verdict entered for the plaintiff or defendant, or a nonsuit entered, as the case may be, in such action, which court is hereby authorized and empowered to grant or refuse such rule, and afterwards to proceed to hear and determine the merits thereof, and to make such orders thereupon as the same court shall think proper; and in case such court shall order a new trial to be had in any such action the party or parties obtaining such order shall deliver the same, or an office copy thereof, to the prothonotary of the said court of common pleas at Lancaster, or his deputy, and thereupon all proceedings upon the former verdict or nonsuit shall cease; and the action shall proceed to trial at the next or some other subsequent session of assizes holden for the county of Lancaster, in like manner as if no trial had been had therein; or in case the court before which any such rule shall be heard shall order the same to be discharged, the party or parties obtaining any such order may, upon delivering the same or an office copy thereof to the said prothonotary, or his deputy, be at liberty to proceed in any such action as if no such rule nisi had been obtained; or if a verdict be ordered to be entered for the plaintiff or defendant, or a nonsuit be ordered to be entered, as the case may be, judgment shall be entered accordingly (1).

All the fifteen judges have been appointed judges of that court; Byrne (or Terns) v. Fitzhugh, 1 C. M. & R. 597; 3 Dowl. P. C. 278.

⁽¹⁾ The court of exchequer held, that it had no power under this clause to order judgment to be entered non obstants veredicto in a cause out of the court of common pleas at Lancaster; Potter v. Moss, 3 Dowl. P. C. 432.

And it has also been held that this section does not authorize the courts at Westminster to entertain a motion in a cause in the common pleas at Lancaster, to set aside an award made under an order of nisi prius, though a verdict was taken subject to the award.

No. I. c. 62.

Judgment and execution not to be stayed, moving enter into recognizance with sureties.

away power of court to grant a new trial. Service of subpoena on witnesses in any and Wales shall be valid to compel appearance.

Not to take part of England

Expence of attendance on writs of subpœna shall be tendered to witnesses.

Where final be obtained in the court, and the person or effects cannot be found within its jurisdiction, any of the su-Westminster may issue execution, &c.

XXVII. Provided always, That the entering up of judgment in any 4 & 5 W. 4, action in the said court of common pleas at Lancaster, and the issuing of execution upon such judgment, shall not be stayed unless the party intending to apply for such rule as last aforesaid shall, with two sufficient sureties such as the last-mentioned court shall approve of, become bound unto the party for whom such verdict or nonsuit shall have been given or obtained, by recognizance, to be acknowledged in the same court, in unless the party such reasonable sum as the same court shall think fit, to make and prosecute such application as aforesaid, and also to satisfy and pay, if such application shall be refused, the debt, or damages and costs adjudged and to be adjudged in consequence of the said verdict or nonsuit, and all costs and damages to be awarded for the delaying of execution thereon.

XXVIII. Provided also, That nothing herein contained shall prevent the said court of common pleas at Lancaster from granting any new trial, or setting aside any nonsuit, or entering a nonsuit, or altering a verdict as heretofore.

XXIX. That the service of every writ of subpœua hereafter to be issued out of the said court of common pleas at Lancaster, and served upon any person in any part of England or Wales, shall be as valid and effectual in law, and shall entitle the party suing out the same to all and the like remedies, by action or otherwise howsoever, as if the same had been served within the jurisdiction of the said court of common pleas at Lancaster; and in case such person so served shall not appear according to the exigency of such writ, it shall be lawful for the same court or one of the judges thereof, upon oath or affirmation to be taken in open court, or upon an affidavit, of the personal service of such writ, to transmit a certificate of such default, under the hand of one of the judges of the same court, to the court of king's bench in England; and the said lastmentioned court shall and may thereupon proceed against and punish, by attachment or otherwise, according to the course and practice of the same court, the person so having made default, in such and the like manner as they might have done if such person had neglected or refused to appear in obedience to a writ of subpoena issued to compel the attendance of witnesses out of such last-mentioned court.

XXX. Provided always, That the said court of king's bench shall not in any case proceed against or punish any person, nor shall any such person be liable to any action, for having made default by not appearing to give evidence in obedience to any writ of subpoena or other process for that purpose issued under the authority of this act, unless it shall be made to appear to the court that a reasonable and sufficient sum of money to defray the expences of coming and attending to give evidence, and of returning from giving such evidence, had been tendered to such person at the time when such writ of subpæna was served upon such

person. XXXI. That whenever a plaintiff or defendant in any action or suit judgment shall in which judgment shall be recovered in the said court of common pleas at Lancaster shall remove his person or goods or chattels from or out of the jurisdiction of the said court of common pleas at Lancaster, it shall and may be lawful for any of the superior courts at Westminster, upon a certificate from the prothonotary of the said court of common pleas at Lancaster, or his deputy, of the amount of final judgment obtained in any such action, to issue a writ or writs of execution thereupon perior courts at for the amount of such judgment, and the costs of such writ or writs and certificate, to the sheriff of any county, city, liberty, or place, against the person or persons or goods of the party or parties against whom such final judgment shall have been obtained, in such manner as upon judgments obtained in any of the said courts at Westminster (1).

⁽¹⁾ Where a defendant after judgment in an action in the common pleas at Lancaster, had removed his person out of the jurisdiction of the county palatine, the court of king's bench on an affidavit of these facts, without showing that he had also removed his goods, ordered a capias ad satisfaciendum to issue under this clause; Lord v. Cross, 4 Nev. & M. 30. But there must be an affidavit that the party has removed his person or his goods, before the court will allow a writ of execution to issue; Duckworth and another, v. Fogg, Excheq. Mich. T., 1835, MS.

XXXII. That in case any rule of the said court of common pleas at Lancaster cannot be enforced by reason of the non-residence of any 4 & 5 W.4, party or parties within the jurisdiction thereof, it shall be lawful, upon a certificate of such rule by the prothonotary of the said court, and an affidavit that by reason of such non-residence such rule cannot be en- lf rules of the forced as aforesaid, to make such rule a rule of any one of the said court cannot be courts at Westminster, if such court shall think fit, whereupon such rule enforced, they shall be enforced as a rule of such court.

may be made

rules of one of the superior courts at Westminster.

XXXIII. That all writs issued out of the said court of common pleas Test and date at Lancaster shall be tested in the name of the chief justice of that court, of writs and or, in case of a vacancy of such office, in the name of one of the other returns of exejudges thereof; and that every writ of venire facias juratores, issued out cutions. of the same court, shall bear date on the day next preceding the first commission day of each assizes, unless such commission day shall be on a Monday, and then on the Saturday preceding; and that every writ of habeas corpora juratorum shall bear date on the day of the return of the venire facias juratores; and that all other writs, except writs of exigent and proclamation, shall respectively bear date on the day on which the same shall be issued; and that all writs of execution may, if the party suing out the same shall think fit, be made returnable immediately after the execution thereof.

XXXIV. That whenever by any act of parliament, or by or under the Power to adopt authority of any act of parliament, or by any rule or order of any of his rules to be Majesty's superior courts at Westminster, or of any of the judges of the made for the same, any rules, orders, or regulations shall be made for the purpose of superior courts framing, regulating, or amending the proceedings, practice, or pleadings at Westminster. of any of the said superior courts at Westminster, it shall be lawful for the judges of the said court of common pleas at Lancaster, or any two of them, by rule or order to be made in that behalf, to adopt, mutatis mutandis, all or any of such rules, orders, or regulations, or any part or parts thereof, as to the said last-mentioned judges shall seem fit.

XXXV. That the costs to be from time to time allowed for preparing Costs of prepleadings in actions in the said court of common pleas at Lancaster shall paring pleadbe the same as shall be allowed for preparing pleadings of a like descrip- ings. tion in actions in the superior courts at Westminster.

XXXVI. That this act shall commence and take effect on the first day Commenceof September one thousand eight hundred and thirty-four.

ment of act.

SCHEDULE to which this Act refers.

No. 1.

WRIT OF SUMMONS.

WILLIAM the Fourth, et cetera.

To C. D. of, et cetera, in the county of Lancaster, greeting: We command you [or as before, or often we have commanded you], that within eight days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in our court of common pleas at Lancaster, in an action on promises [or as the case may be] at the suit of A. B.; and take notice, that in default of your so doing the said A. B. may cause an appearance to be entered for you, and proceed therein to judgment and execution.

Witness day of

at Lancaster, the

in the

year of our reign.

Memorandum to be subscribed on the Writ.

N. B.—This writ is to be served within four calendar months from the date thereof, including the day of such date, and not afterwards.

No. I. 4 & 5 W. 4, c. 62.

Indorsement to be made on the Writ before Service thereof.

This writ was issued by E. F. of plaintiff or plaintiffs within named.

attorney for the

This writ was issued by of agent for G. H. of attorney for the plaintiff or plaintiffs within named.

This writ was issued in person by the plaintiff or plaintiffs within named who resides or reside at [mention the city, town, or parish, and also the name of the hamlet, street, and number of the house of the plaintiff's residence, if any such.]

Indorsement to be made on the Writ after Service thereof.

This writ was served by me X.Y. on the day of

on one thousand eight hundred

and

X. Y.

No. 2.

FORMS OF ENTERING AN APPEARANCE.

A. B. Plaintiff against C. D.

or

against C. D. and another,

or

against C. D. and others.

The defendant C. D. appears in person,

E. F., attorney for C. D., appears for him.

G. H., attorney for the plaintiff, appears

for the defendant C. D. according to the

statute.

Entered the

day of one

thousand eight hundred and

No. 3.

WRIT OF DISTRINGAS.

WILLIAM the Fourth, et cetera.

To the sheriff of Lancashire, greeting:

WE command you, that you omit not by reason of any liberty in your bailiwick, but that you enter the same and distrain upon the goods and chattels of C. D. for the sum of forty shillings, in order to compel his appearance in our court of common pleas at Lancaster, to answer A. B. in a plea of trespass on the case [or debt, as the case may be]; and how you shall execute this our writ you make known to our justices at Lancaster on the day of now next ensuing.

Witness day of

at Lancaster, the

in the

year of our reign.

Notice to be subscribed to the foregoing Writ.

In the court of common pleas at Lancaster:

Between A. B. Plaintiff,

and

C. D. Defendant.

Mr. C. D.

Take notice, that I have this day distrained upon your goods and chattels in the sum of forty shillings, in consequence of your not having appeared in the said court to answer to the said A. B., according to the exigency of a writ of summons bearing teste on the day of and that in default of your appearance to

the present writ within eight days inclusive after the return hereof, the

Class XV.] Wales—Counties Palatine and Liberties.

said A. B. will cause an appearance to be entered for you, and proceed thereon to judgment and execution; or (if the defendant be subject to out- 4 & 5 W. 4, lawry) will cause proceedings to be taken to outlaw you.

No. I. c. 62.

No. 4.

WRIT OF CAPIAS.

WILLIAM the fourth, et cetera.

To the sheriff of Lancashire.

To the coroners of the county of Lancaster,

[as the case may be], greeting:

WE command you [or as before, or often we have commanded you], that you omit not by reason of any liberty in your bailiwick, but that you enter the same and take C. D. of if he shall be found in your bailiwick, and him safely keep until he shall have given you bail, or made deposit with you, according to law, in an action on promises [or of debt, et cetera,] at the suit of A. B., or until the said C. D. shall by other lawful means be discharged from your custody: And we do further command you, that on execution hereof you do deliver a copy hereof to the said C. D.: And we do hereby require the said C. D. to take notice, that within eight days after execution hereof on him, inclusive of the day of such execution, he should cause special bail to be put in for him in our court of common pleas at Lancaster to the said action, and that in default of his so doing such proceedings may be had and taken as are mentioned in the warning hereunder written or indorsed hereon: And we do further command you the said sheriff [or coroners, or as the case may be], that immediately after the execution hereof you do return this writ to our said court, together with the manner in which you shall have executed the same, and the day of the execution hereof; or that if the same shall remain unexecuted, then that you do so return the same at the expiration of four calendar months from the date hereof, or sooner, if you shall be thereto required by order of the said court or by any judge thereof.

Witness

at Lancaster, the

day of

in the

year of our reign.

Memoranda to be subscribed to the Writ.

N. B.—This writ is to be executed within four calendar months from the date thereof, including the day of such date, and not afterwards.

A Warning to the Defendant.

- 1. If a defendant being in custody shall be detained on this writ, or if a defendant being arrested thereon shall go to prison for want of bail, the plaintiff may declare against any such defendant on or before the third commission day of the assizes (exclusive of a Sunday) next after such detainer or arrest, and proceed thereon to judgment and execution.
- 2. If a defendant being arrested on this writ shall have made a deposit of money, according to the statute seventh and eighth of George the fourth, chapter seventy-one, and shall omit to enter a common appearance to the action, the plaintiff will be at liberty to enter a common appearance for the defendant, and proceed thereon to judgment and execution.
- 3. If a defendant having given bail on the arrest shall omit to put in special bail, as required, the plaintiff may proceed against the sheriff, or on the bail bond.
 - 4. If a defendant, having been served only with this writ, and not

No. I.

arrested thereon, shall not enter a common appearance within eight days 4 & 5 W. 4, after such service, the plaintiff may enter a common appearance for such defendant, and proceed thereon to judgment and execution.

Indorsements to be made on the Writ of Capias.

Bail for

Bail for

within named.

pounds by affidavit;

pounds by order of [naming the judge

making the order. Dated the

day of attorney for

This writ was issued by G. H. of the plaintiff [or plaintiffs] within named.

This writ was issued by for E. F. at

of agent attorney for the plaintiff [or plaintiffs]

This writ was issued in person by the plaintiff or plaintiffs within named, who resides or reside at mention the city, town, or parish, and also the name of the hamlet, street, and number of the house of the plaintiff's residence, if any such there be.

No. 5.

WRIT OF DETAINER.

WILLIAM the Fourth, et cetera.

To the sheriff of Lancashire, greeting:

WE command you, that you detain C. D. if he shall be found in your custody at the delivery hereof to you, and him safely keep in an action on promises [or of debt, et cetera, as the case may be,] at the suit of A. B. until he shall be lawfully discharged from your custody: And we do further command you, that on receipt hereof you do warn the said C. D. by serving a copy hereof on him, that within eight days after service of such copy, inclusive of the day of such service, he do cause special bail to be put in for him, in our court of common pleas at Lancaster, to the said action; and that in default of his so doing the said A. B. may declare against him on or before the third commission day of the assizes (exclusive of Sunday) next after his detainer, and proceed thereon to to judgment and execution: And we do further command you the said sheriff, that immediately after the service hereof you do return this our writ, or a copy hereof, to our said court, together with the day of the service hereof.

Witness

at Lancaster, the

day of in the year of our reign.

N. B.—This writ is to be indorsed in the same manner as the writ of capias, but not to contain the warning on that writ.

[For the 5 & 6 W. 4, c. 82, s. 7, giving compensation to lords of liberties and others for the loss of fines consequent upon the abolition of fines and recoveries, see ante, Part IV., Class I.]

PART IV.

CLASS XVI.

INFERIOR COURTS.

LNo. I.] 3 & 4 W. IV. c. 22.—An Act to amend the Laws [28th June 1833.] relating to Sewers.

WHEREAS an act was passed in the twenty-third year of the reign of 23 H. 8, c. 5. his Majesty king Henry the eighth, concerning commissions of sewers to be directed into all parts within the then realm of England, including the principality of Wales, in the manner and according to the form, tenor, and effect in the said act set forth, and which said act was made perpetual by an act passed in the third and fourth years of the reign of his Majesty king Edward the sixth, intituled An Act for the 3 & 4 Edw. 6. Continuance of the Statute of Sewers, and was amended and altered by an c. 8. act passed in the thirteenth year of the reign of her Majesty queen Eli- 13 Eliz. c. 9. zabeth, intituled An Act for the Commission of Sewers: And whereas. great difficulty, inconvenience, and expence are found to arise by reason that the laws relating to sewers are in many respects defective: And whereas doubts have arisen as to the extent of the powers given to the commissioners of sewers by the said recited acts and the commissions issued in pursuance thereof, and particularly as to the legal mode of conducting inquiries by means of juries impanelled and returned by sheriffs, bailiffs, and other returning officers under the authority of the said recited acts, and also as to the legal power of courts of sewers to decree and order new works to be made and executed for the better defending, draining, sewing, and securing the lands within the limits of their respective commissions, and to grant, impose, and levy rates, taxes, scots, or assessments for or in respect of such new works, and to decree and order the taking up and borrowing of money at interest to repay the costs and charges of such new or any extraordinary or other works, so as to charge and recover of and from the owners and occupiers for the time being of lands, tenements, and hereditaments the amount of money so borrowed or any part thereof, and thereby to distribute such costs and charges fairly and equitably among the parties who shall or may from time to time receive benefit or avoid damage by or from the same: And whereas it is expedient to increase the amount of qualification of commissioners of sewers, and that other provisions should be made for the better execution of the powers by law vested or to be vested in commissioners of sewers: May it therefore please your Majesty that it may be enacted; and be it enacted, &c., That no person who has not already Qualification acted as a commissioner under any commission of sewers already issued of commisshall be qualified or capable of becoming or acting as a commissioner in sioners. the execution of any commission of sewers unless such person shall be, in his own right or in right of his wife, in the actual possession or receipt for life or for a larger estate of the rents and profits of lands, tenements, or hereditaments, situated in the county in which he shall act as a commissioner, or in any adjoining county, of freehold or copyhold tenure, or held for a term of not less than sixty years absolute, or determinable with a life or lives, of the clear yearly value of one hundred pounds above reprises, or held for a term of years originally granted for not less than twenty-one years, and of which ten years at the least shall then be unexpired, of the clear yearly value of two hundred pounds above reprizes, or shall be heir apparent of a person possessed of freehold or copyhold lands, tenements, or hereditaments, situated in such county as aforesaid, or in any adjoining county, of the clear yearly value of two hundred pounds above reprizes, or unless such person

No. I. c. 22.

shall be the agent duly appointed by writing under the seal of any body 3 & 4 W. 4, politic or corporate, or under the hand of any person not being himself present, and acting as a commissioner in the execution of the commission of sewers under or by virtue of which such agent shall act, and which body politic or corporate shall for the time being be in the receipt of the rents and profits of freehold or copyhold lands, tenements, or hereditaments situated in such county as aforesaid, or in any adjoining county, and which person making such appointment shall for the time being be, in his own right or in right of his wife, in the actual possession or receipt of the rents and profits of freehold or copyhold lands, tenements, or hereditaments, situated in such county as aforesaid, or any adjoining county, and which lands, tenements, or hereditaments, whether so belonging to such body politic or corporate, or to such other person, shall be actually taxed under or by virtue of the commission of sewers in respect whereof such agent shall act, and shall be of the clear yearly value of three hundred pounds above reprizes, or unless such agent shall, before he acts, deliver his written appointment to the clerk to such commission of sewers, or his deputy, to be filed by such clerk among the records or proceedings of the commissioners acting in the execution of such commission: Provided always, That in cases where commissions of sewers run into more than one county, the qualification herein-before provided may be situated either partly in each of the counties into which such commission shall run, or wholly in any one of such counties: Provided that nothing in this act contained shall extend to give a qualification to any person as agent after he shall have ceased to be such agent.

Quakers may act as commissioners, upon making an affirmation.

II. That if any person being a Quaker shall have been or shall hereafter be appointed a commissioner of sewers, and shall be in other respects qualified according to the provisions of the said recited acts and of this act, it shall be lawful for such person, on making his solemn affirmation to the effect of the oath prescribed by the said recited act of the twentythird year of the reign of king Henry the eighth, before the person or persons who for the time being shall be empowered by law to administer such oath, and also upon his making and subscribing the affirmation directed by this act, to act as a commissioner of sewers, without being subject or liable to any penalty or forfeiture imposed by the said last recited act for acting without having taken the oath therein contained.

Oath to be taken by other commissioners before acting.

III. That every such commissioner before he shall act in the execution of his office shall, in addition to the oath prescribed by the said recited act of the twenty-third year of the reign of king Henry the eighth, (or the affirmation in lieu thereof substituted by this act in respect of any commissioner who shall be a Quaker,) take and subscribe before the person or persons who for the time being shall be authorized to administer the oath prescribed by the said last-mentioned act the following oath, or, being a Quaker, the following affirmation; videlicet,

do swear, for, being one of the people called Quakers, do solemnly affirm,] That I truly and bond fide am in my own right [or ' in the right of my wife] in the actual possession and enjoyment of [or 'in the receipt for life, or for a larger estate, of the rents and profits 'issuing out of] lands, tenements, or hereditaments, situate in the ' county of of freehold or copyhold tenure, or held ' for a term of not less than sixty years absolute, or determinable with a ' life or lives, of the clear yearly value of one hundred pounds above reprizes; or held for the unexpired term of years, originally years, of the clear yearly value of two hundred granted for pounds above reprizes; [or am heir apparent of 'who, to the best of my knowledge, is seised of freehold or copyhold 'lands, tenements, or hereditaments, situate in the county of ' of the clear yearly value of two hundred pounds above reprizes]; [or 'am agent of , who, [or which,] to the best of my know-'ledge, is seised or possessed in his or their own right] [or in the right

of his wife] of freehold or copyhold lands, tenements, or hereditaments,

, of the clear yearly value of three 3 & 4 W. 4, situate in the county of "hundred pounds above reprizes. 'So help me GOD.'

[Or, being a Quaker, omit the Words, 'So help me God.']

No. I. c. 22.

IV. That if any person who has not already acted as a commissioner Penalty on of sewers shall presume to act as a commissioner of sewers, not persons acting being qualified as aforesaid, or who shall have ceased to be qualified not qualified. as aforesaid, or not having taken the oath, or, being a Quaker, made the solemn affirmation prescribed by this act, every person wilfully so offending shall for every such offence forfeit and pay the sum of one hundred pounds to any person or persons who shall sue for the same, to be recovered, with full costs of suits, in any of his Majesty's courts of record at Westminster, by action of debt or on the case, or by bill, plaint, suit, or information, wherein no essoign, protection, wager of law, or more than one imparlance, shall be allowed; and the person so sued or prosecuted shall prove that he is qualified, or otherwise shall pay the said penalty, without any other proof or evidence on the part of the prosecutor than that such person had acted as a commissioner in the execution of any commission of sewers: Provided nevertheless, that Proceedings no act or proceeding touching the execution of any commission of sewers not to be imwhich shall be done or performed by any unqualified person previously peached on acto his being convicted of the offence of acting without being qualified as qualification. herein provided shall be thereby impeached or rendered nugatory, but all such acts and proceedings shall be as valid and effectual as if such person had been duly qualified.

V. Provided always, That any mayor, bailiff, or other officer appointed Ex officio comor authorized to act as a commissioner under any commission of sewers missioners not by virtue of his office shall and may, so long as he shall hold such office, required to act as a commissioner in the execution of such commission of sewers by virtue of such office, without being qualified as herein-before directed with regard to commissioners of sewers in general, and without being required to take and subscribe the oath or affirmation herein-before prescribed to be taken by commissioners of sewers in general with regard to their qualification, and without being liable to the forfeiture or penalty herein-before imposed upon commissioners of sewers in general for acting without being qualified as aforesaid, or without having taken such oath or affirmation, any thing herein-before contained to the contrary thereof in anywise notwithstanding: Provided also, that such mayor, bailiff, or other officer shall, before he acts, deliver a certificate, under the hand of the town clerk or other legal officer of the corporation in respect of which such mayor, bailiff, or other officer shall or may act, to the clerk to the commission under which he shall so act as aforesaid, certifying that he is the mayor, bailiff, or other officer authorized to act as a commissioner under such commission.

VI. That from and after the passing of this act all and every commis-Commission to sion and commissions of sewers then being in force, or that hereafter continue for shall be granted and made, shall stand and continue in force for the ten years, unterm of ten years next ensuing the date of every such commission, not repealed by withstanding any demise of the crown of these realms during the exist- writ of superence of any such commission or commissions, unless the same commis-sedeas. sion or commissions be or thereafter shall be repealed or determined by reason of any new commission in that behalf made, or by writ of supersedas delivered out of the king's court of chancery, discharging any such commission or commissions.

VII. That all laws, acts, decrees, constitutions, and ordinances made Laws, decrees, or to be made by any court of sewers, and duly registered in the rolls to continue in or books of such court by the clerk to the commission, shall continue in force notwithfull force and effect, notwithstanding the expiration, repeal, or other standing expirdetermination of the commission under which such laws, acts, decrees, ation of comconstitutions, and ordinances shall have been respectively made, and mission, and notwithstanding the same respectively shall not have been ingrossed or although not written in parchment, and under the seals of the commissioners or any ingressed in

No. I. 3 & 4 W. 4. c. 22. parchment, or not certified into the court of chancery.

Regulations as to meetings of commissioners.

six of them, and notwithstanding the one part thereof shall not remain with the clerk to the commission, and the other part in such place as the said commissioners or six of them shall order or appoint, and notwithstanding the same shall not be certified into the king's court of chancery, and the king's royal assent had thereto respectively, until the same laws, acts, decrees, constitutions, and ordinances shall be altered, repealed, or made void by any subsequent court or courts of sewers in those parts or limits where the same laws, decrees, and ordinances were or shall be made and ordained, or by any six of them.

VIII. That it shall be lawful for the said commissioners or any three or more of them, or for their clerk upon the direction in writing of any three or more of the said commissioners, (and which he is hereby required to do on such direction, to appoint the first meeting of the said commissioners after the passing of this act at such time and place as to them shall seem meet, and of which meeting ten clear days previous notice shall be given, by advertisement in some newspaper of the county, and generally circulated in that district thereof, and it shall be lawful for the said commissioners from time to time to meet at such time and place, and to adjourn to meet at any place or places and at such time or times as the said commissioners or the major part of them present at any meeting shall appoint; and no order or determination shall be made unless the major part of the commissioners present shall concur therein; and all acts, orders, and proceedings which are directed or authorized to be made, done, or exercised by or before the said commissioners, and all the powers and authorities vested in them, shall and may be made, done and exercised by the major part of the commissioners who shall be present at the said respective meetings, the whole number present not being less than six; and all acts, orders, or proceedings made, done, or executed by or before such six commissioners shall have the same force and effect and be as binding and conclusive on all persons, to all intents and purposes whatsoever, as fully and effectually as if the same were made, done, or executed by or before the whole of the said commissioners; and a chairman shall and may in the first place be appointed at every meeting by a majority of the votes of the persons present, who in case of an equal number of votes (including the chairman's vote) shall have the casting or decisive vote.

Special meetings on emercalled on ten days' notice.

On certain ocmeetings may be called by order of two commissioners on a shorter notice.

IX. That if after any adjournment of any meeting of the said commissioners it shall on any emergency be considered necessary or adgencies may be visable that a special meeting should be appointed for an earlier day than the day for which any meeting shall stand by adjournment as aforesaid, then and in such case it shall be lawful for the said commissioners or any three or more of them, or for their clerk upon the direction in writing of any three or more of the said commissioners (and which he is hereby required to do on such direction), to appoint a special meeting for an earlier day, and of which meeting, and of the time and purpose thereof, ten clear days' previous notice shall be given by advertisement in some newspaper of the county, and generally circulated in that district thereof; and no other business shall be transacted on any such special meeting but that which shall have been specified in such notice as aforesaid: Provided nevertheless, that in the event of any imminent casions special danger being apprehended from unusually high tides or any other cause, and that in the judgment of two or more of the said commissioners the exigency of the case will not admit of the delay of ten clear days' previous notice of a special meeting, it shall and may be lawful for any two or more of the said commissioners, or for their clerk upon the direction in writing of any two or more of the said commissioners (and which he is hereby required to do on such direction), to convene, by circular letter sent to each acting commissioner, a special meeting for as early a day as the said two or more commissioners shall think fit in their discretion to appoint, such letters to specify the particular object for which such meeting is convened; and no business shall be transacted thereat but that which strictly relates to such object.

X. And whereas doubts have arisen as to the extent of the jurisdiction of commissioners of sewers; be it therefore further enacted and de- 3 & 4 W. 4, clared, That all walls, banks, culverts, and other defences whatsoever, whether natural or artificial, situate or being by the coasts of the sea, and all rivers, streams, sewers, and watercourses which now are or hereafter Description of shall or may be navigable, or in which the tide now does or hereafter sewers and shall or may ebb and flow, or which now do or hereafter shall or may other works directly or indirectly communicate with any such navigable or tide river, under the justream, or sewer, and all walls, banks, culverts, bridges, dams, flood_risdiction of gates, and other works erected or to be erected in, upon, over, or ad-commissioners joining to any such rivers, streams, sewers, or watercourses, shall be of sewers. from henceforth, to all intents, constructions, and purposes, within and subject to the jurisdiction of commissioners of sewers: Provided aways, That nothing herein contained shall authorize or empower any commissioners of sewers to exercise authority or jurisdiction upon or over any dams, floodgates, or other works erected for the purpose of ornament, previous to the passing of this act, in, upon, or over any rivers, streams, ditches, gutters, sewers, or watercourses near or contiguous to any house or building, or in any garden, yard, paddock, park, planted walk, or avenue to a house, without the consent in writing of the owner or proprietor thereof respectively first had and obtained.

XI. That in all cases in which any court of sewers shall inquire by Inquiry and jury of or concerning all or any of the matters and things authorized presentment by and directed to be inquired into and presented under and by virtue of jury. the said recited acts, and the laws of sewers of old time accustomed, or of this act, it shall and may be lawful for commissioners of sewers, or any six or more of them, to issue a warrant or precept under their hands and seals to the sheriff, bailiff, or other returning officer or officers of every county at large, cinque port, city, town, liberty, precinct, or place within the limits of such commission, commanding such sheriff, bailiff, or other returning officer or officers to impanel, summon, and return, and he and they is and are hereby required, on receiving such warrant or precept, to impanel, summon, and return, at such time and place as in such warrant or precept shall be expressed, a jury of not exceeding forty-eight nor less than eighteen substantial and indifferent persons within his or their respective jurisdiction, qualified and usually summoned to serve on grand juries in courts of sessions of the peace; and the persons so to be impanelled, summoned, and returned as aforesaid are hereby required to appear before the said commissioners at such court of sewers to be holden within and for the limits of any and every such commission of sewers, or at some adjournment thereof, as in such warrant or precept shall be directed, and to attend such court, and at any and every adjournment thereof, until discharged by the said court; and the said jury shall be sworn in open court before the commissioners, and shall be charged by them to take their inquisition, and to make and return their presentments of and concerning all matters and things authorized and directed to be inquired into and presented under and by virtue of the said recited acts, and the law of sewers of old time accustomed, and of this act; and the said jury, being so impanelled, sworn, and charged as aforesaid, shall proceed in their inquiry before and in the presence of the court, upon the evidence of one or more credible witness or witnesses, delivered upon oath or affirmation, in the same manner and form, and subject to the like rules of taking and receiving evidence, as is usual in his Majesty's courts of common law; and the said commissioners may cause to be summoned to appear before them at the time and place of holding their respect courts of sewers aforesaid, and at every adjournment of any court, all clerks, keepers, bailiffs, engineers, surveyors, collectors, expenditors, and other their ministers and officers of sewers, and such other persons as in the judgment of such commissioners shall be competent to give proper evidence and information to the court and jury in the premises; and notice of the time and place of taking such inquisition shall be given by affixing to the principal door of each and every

No. I. c. 22.

No. I. c. 22.

of the churches and chapels in the several parishes, townships, or places 3 & 4 W. 4, in which the rivers, streams, ditches, sewers, watercourses, walls, banks, culverts, and other works, lands, tenements, and hereditaments, common of pasture and profit of fishing, and other matters and things to be inquired into or that may be affected thereby, shall lie, be, or arise, or if there be no church, then to some conspicuous place within such parish, township, or place, a printed or written paper specifying such time and place of meeting, and signed by the clerk to the court before whom such inquisition is to be taken, at least seven days before the taking of such inquisition, and also by inserting, at least seven days before the taking thereof, such notice once at the least in one or more of the newspapers published or circulated in or near to the limits of the commission of sewers under authority whereof such inquisition shall be taken.

In certain cases of difference a jury to be impanelled which shall be at large and half from the minor jurisdiction.

XII. And forasmuch as there are in many counties at large cities and towns being counties of themselves, cinque ports, hundreds, liberties, and precincts, having jurisdiction exclusive of the sheriffs, bailiffs, or other returning officers of such counties at large; and it may happen composed, half that in the inquiries and presentments of and concerning any matters from the county and things affecting or relating to lands or tenements lying partly in such county at large, and partly in such minor jurisdiction, authorized and directed to be inquired into and presented under or by virtue of the said recited acts, and the law of sewers of old time accustomed, and of this act, the jury returned by the sheriff or other returning officer of such county at large, and the jury returned by the sheriff or other returning officer of such minor jurisdiction, may come to opposite or different conclusions, or make opposite or different presentments of or concerning such matters and things as aforesaid, and in such case the powers of the court of sewers may thereby become ineffectual or difficult to be carried into effect; be it therefore enacted, That in any case in which a jury returned by the sheriff or other returning officer of a county at large, and the jury returned by the sheriff, or other returning officer of any such minor jurisdiction, shall in the judgment of the said court, come to opposite or different conclusions, or make opposite or different presentments of or concerning any matters or things affecting or relating to any lands or tenements lying partly in such county at large and partly in any such city or town and county of the same, cinque port, hundred, liberty, or precinct within such county at large, it shall and may be lawful for such court of sewers thereupon, or at any time thereafter, to issue a warrant or precept, as well as to sheriff, bailiff, or other returning officer of such county at large, as to the sheriff, bailiff, or other returning officer of such city or town and county of the same, cinque port, hundred, liberty, or precinct, commanding them respectively to impanel, summon, and return, and he and they is and are hereby required, on receiving such respective warrant or precept, to impanel, summon, and return, at such time and place (although out of the jurisdiction of such respective sheriff, bailiff, or other returning officer,) as in such warrant or precept shall be expressed, a sufficient number, not exceeding eighteen nor less than nine substantial and indifferent persons within his jurisdiction, and not having composed part of the juries respectively which shall have previously differed in respect of the matters or things aforesaid, and out of each panel so to be returned the names of nine persons shall be drawn by the clerk of such court of sewers or his deputy in such manner as juries for trials or issues joined in his Majesty's courts of record at Westminster are by law directed to be drawn; and the said eighteen jurymen shall thereupon be sworn and charged to take their inquisition and to make and return their presentment of and concerning the aforesaid matters and things, and which presentment so taken and made shall be as conclusive in all respects as if the same matters and things had been inquired of as to lands or tenements lying within such county at large by a separate jury of such county at large, and as to lands or tenements lying within such city or town and county of the same, cinque port, hundred, liberty, or precinct, by a separate jury thereof.

XIII. And whereas doubts have arisen whether a presentment of a jury is not necessary on each and every occasion to repair defences and 3 & 4 W. 4, works within the jurisdiction of commissioners of sewers; be it therefore enacted, That whenever, under any commission now in force or which shall hereafter issue, a jury shall have found and presented that any A presentment person, body politic or corporate, is or are liable to and ought to main- of a jury not to tain and repair or contribute to the maintenance and repair of any defence, be necessary wall, bank, sewer, or other work within the jurisdiction of the commission of sewers acting under or by virtue of such commission, in respect of any lands, tenements, or hereditaments, or common of pasture, or profit of fishing, it shall not afterwards, during the continuance of such commission, be necessary to inquire by jury and obtain a presentment upon any subsequent wants of amendment and reparation of the same defences, walls, banks, sewers, or works, or any of them, but such person, body politic or corporate, so presented as aforesaid, and the owners and occupiers for the time being of such lands, tenements, or hereditaments, or common of pasture, or profit of fishing, shall be liable from time to time to maintain and repair or contribute to the maintenance and repair of such defences, walls, banks, sewers, and other works, according to such presentment; and it shall and may be lawful for the commissioners of sewers to decree, order, and direct the same to be maintained and repaired by such person, body politic or corporate, from time to time during the continuance of such commission accordingly.

parate and distinct rates, as occasion shall require, for every separate made for every and distinct level, valley, or district, or any part of such level, valley, or distinct level district, within their respective commissions, and to fix and specify the or district. limits of every such level, valley, or district, or of any such part of a level, valley, or district and to appoint surveyors, collectors, treasurers, expenditors, and other officers for every such level, valley, or district, or any part thereof respectively, whenever the said commissioners shall think fit so to do, and to cause separate and distinct accounts to be kept of all monies collected and received by virtue of any rate or rates which shall be made, under the authority of the said recited acts relating to sewers, or of this act, upon any lands or hereditaments within any such level, valley, or district, or any part thereof respectively, and of all payments and disbursements in respect thereof; and the said commissioners are hereby also authorized to apply the monies to be collected

and received from each distinct level, valley, or district, or any part thereof respectively, by virtue of any such rate or rates as aforesaid, to and for the several purposes to which the same may be lawfully applied under the authority of the said recited acts or of this act, but so nevertheless that each level, valley, or district, and every part of such level, valley, or district, shall bear its own costs, charges, and expences; and in case any such costs, charges, and expences shall apply to or be in-

curred in respect of two or more levels, valleys, or districts, or parts thereof respectively, the same shall be apportioned and divided between such levels, valleys, and districts, or such parts thereof respectively, in such manner as the said commissioners shall adjudge to be fair and

equitable.

XV. Provided always, That nothing in this act contained shall ex- Nothing herein tend or be construed to extend to release or discharge any person, body to discharge politic or corporate, from any liability to which such person, body poli-persons from tic or corporate, was or were before the passing of this act subject by liability by tereason of tenure, frontage, prescription, custom, covenant, or grant; nure, &c. but in case any such person, body politic or corporate, shall not keep in good and proper repair any walls, banks, sewers, guts, gotes, calcies. tunnels, culverts, sluices, floodgates, tumbling bays, cuts, and other works, aids, and defences to which he, she, or they may be liable by reason of any such tenure, frontage, prescription, covenant, or grant, and shall not, after having had seven days' notice from the surveyor

No. 1 c. 22.

XIV. That it shall be lawful for the said commissioners to make se-Rates to be

No. I. c. 22.

dikereeve, or other officer to be appointed by the court of sewers for that 3 & 4 W. 4, purpose, proceed to put the same into good and proper repair with all reasonable and proper dispatch, then and in that case it shall be lawful for such surveyor, dikereeve, or officer to put the same into good and sufficient repair; and the expences to be incurred thereby shall be paid by the person, body politic or corporate, liable to such repair as aforesaid.

Certain persons to be paid for expences and loss of time in executing commissions of sewers.

XVI That any court shall and may, at its discretion, by and out of the taxes, rates, and scots to be raised under and by virtue of the said recited acts and this act, or any or either of them, decree, order and appoint, pay and allow, to clerks and other persons employed by the court, and also to witnesses attending to give evidence before the said court, either in support of any presentment or order of the court, or in opposition to such presentment or order, such recompence, sum and sums of money, from time to time, for their several expences and loss of time, as to the said court shall seem just, and also all such costs, charges, and expences as shall be incurred in surveying, measuring, planning, and valuing the lands and hereditaments, or otherwise preparatory to or in or about the making, collecting, and expending such taxes, rates, or scots as aforesaid, or the hearing of objections to such taxes, rates, or scots, or in or about the carrying on of any litigation or controversy arising out of the duties imposed on the courts of sewers by virtue of the recited acts or of this act, and for the payment of all other necessary allowances, charges, and expences of putting the recited acts and this act into execution, and the contingent expences of working the said commissions of sewers respectively.

Nothing in this from causing inquiry and presentment by jury as before.

XVII. Provided always, That nothing herein contained shall prevent act to preclude any court of sewers, from time to time and at any time during the concourts of sewers tinuance of the commission of sewers, from causing inquiry and presentments to be made by jury of and concerning the aforesaid matter and things, or any other matter, cause, or thing to be inquired into and presented upon, by the ways and means herein-before provided, or by such other ways and means as they were authorized by ancient custom and usage or otherwise to do before the passing of this act, or to abridge or invalidate any powers or authorities usually heretofore exercised by any commissioners of sewers in their respective limits not herein expressly abrogated or altered.

Rates to be apportioned beand incoming tenants.

XVIII. And whereas persons frequently remove from and give up the possession of lands, tenements, and hereditaments, before deriving the tween outgoing full benefit of the outlay of the last scot or rate assessed or imposed upon them in respect thereof under or by virtue of the law of sewers, and it is just and reasonable that the persons who succeed them in the possession thereof should be subject to a proportion of such rate; be it therefore enacted, That where any person shall come into or occupy any lands, tenements, or hereditaments out of or from which any other person assessed as aforesaid shall be removed, and also when any lands, tenements, or hereditaments shall at the time of making such scot or rate be empty or unoccupied, then every person so rated or assessed and removing from, and every person so coming into or occupying the same, shall be liable to pay such scot or rate in proportion to the time that such persons respectively occupied the same lands, tenements, or hereditaments, in the same manner, and under the like penalty of distress, as if such person so removing had not removed, or such person so coming in or occupying had been originally rated and assessed in such scot or rate; and which said proportion, in case of dispute between the parties, shall be ascertained and settled by any court of sewers: Provided always, That no outgoing tenant shall be entitled to have or claim any larger amount of rate than shall have been actually paid by him, and not repaid by his landlord.

Commissioners authorized to 1 Lew works.

XIX. That it shall and may be lawful for any court of sewers to decree and ordain any new walls, banks, sewers, guts, gotes, calcies, bridges, ake and main- tunnels, culverts, sluices, floodgates, tumbling bays, cuts, or other works,

No. I.

c. 22.

aids, and defences, or any alteration in the gauge, dimension, course, direction, or situation of any old or existing walls, banks, rivers, sewers, 3 & 4 W. 4, guts, gotes, calcies, bridges, tunnels, culverts, sluices, floodgates, tumbling bays, cuts, and other works, aids, and defences to be constructed, made, and done for the more effectually defending and securing any lands, tenements, hereditaments, and premises within the jurisdiction of such court against the irruption or overflowing of the sea, or for draining and carrying off the superfluous fresh waters, according to the wisdom and discretion of such court, and also, in like manner and at their discretion, to decree and ordain any former walls or defences against the sea, or against any rivers, streams, sewers, or watercourses, within their commission, to be abandoned and given up, and new defences and walls, banks, sluices, floodgates, tumbling bays, cuts, and other works to be made and continued in lieu thereof; and in every such case to direct by inquiry and presentment of a jury in what manner and proportions the same shall thereafter be repaired and maintained by the person, body politic or corporate, deriving advantage or avoiding damage thereby or therefrom, having regard to previous liabilities in respect of the walls and defences so to be abandoned and given up.

XX. Provided always, That nothing herein-before contained shall be Not to interfere construed to authorize or empower the commissioners acting under any with provisions commission of sewers for the county of Kent, or any limits or district of 16 G.3, within the same, to decree or ordain any wall, bank, sewer, gut, cut, c. 62, for pregote, calcey, sluice, floodgate, tumbling bay, or other work, aid, or venting of predefence to be constructed, made, or done for conveying the waters of the judice to Sandriver Stour, above Sandwich bridge in the county of Kent, into the part Kent. of Sandwich haven below the bridge, or into the sea at Pegwell bay, not authorized by an act passed in the sixteenth year of the reign of his late Majesty king George the third, intituled An Act to enable the Commissioners of Sewers for the several Limits in the Eastern Parts of the County of Kent more effectually to drain and improve the Lands and Grounds within the general Valleys, or so as in any manner to affect, alter, or interfere with the provisions of the said act for the preventing

of prejudice to Sandwich haven.

XXI. Provided always, That nothing in this act contained shall extend No new works or be construed to extend to authorize or empower any court of sewers to be made to make any new walls, banks, sewers, guts, gotes, calcies, sluices, flood-without the gates, tumbling bays, cuts, or other works, aids, and defences, where consent of the none have or hath or shall have theretofore been, without the consent in owners and writing, certified to such court of sewers, of the owners and occupiers three fourth respectively, or their respective husbands, guardians, trustees, or feoffees, parts in value committees, executors, or administrators, of three fourth parts at the of the lands to least in value of the lands and hereditaments lying within the valley, be charged. level, or district proposed to be charged with the costs and expences of

making and executing such new works respectively.

XXII. That it shall and may be lawful for the occupier for the time Occupiers of being of land lying next and adjoining to any river, sewer, or water-land adjoining course within and subject to the jurisdiction of commissioners of sewers, sewers may at any time within six calendar months from and after any gravel, soil, take away soil mud, or earth shall have been cast or deposited upon the banks of such and weeds from river, sewer, or watercourse, by the order of any surveyor, bailiff, ex-banks for their penditor, or other officer of sewers, and at any time within six weeks own use. from and after any rushes, flags, or other weeds shall have been cast or deposited upon such banks as aforesaid, to take and remove for his own use such gravel, soil, mud, and earth, and such rushes, flags, and weeds respectively: Provided always, That such gravel, soil, mud, and earth, and such rushes, flags, and weeds respectively, shall be removed at least ten feet from the land side of the banks of such river, sewer, or watercourse.

occupiers of

XXIII. That if any such occupier shall neglect to remove such gravel, Upon neglect soil, mud, or earth as aforesaid within such six calendar months as afore- of occupiers to

No. I. c. 22. remove soil. surveyors may remove it.

said, or such rushes, flags, or other weeds as aforesaid within such six 3 & 4 W. 4, weeks as aforesaid, for his own use, then and from thenceforth respectively it shall be lawful for any such surveyor, bailiff, expenditor, or other officer of sewers, with workmen, horses, carts, carriages, barrows, and other necessary tools and implements, at any time or times in the day-time to enter upon the land of such occupier, and to take away and remove therefrom such gravel, soil, mud, and earth, and such rushes, flags, and weeds respectively, and also for such purposes to pass and repass, at any time or times in the day-time, through and over any other lands lying between the nearest highway and the banks of such river, sewer, or watercourse: Provided always, That if the owner or occupier of the land upon which any such gravel, soil, mud, earth, rushes, flags, or weeds shall have been deposited shall require the commissioners of sewers to remove the same, such commissioners shall, within six weeks after such requisition as aforesaid, cause the same to be removed from and off the said land.

Commissioners authorized to contract for the purchase of lands, &c.

XXIV. That it shall be lawful for any court of commissioners of sewers to treat, contract, and agree with the owners of and persons interested in any messuages, lands, tenements, hereditaments, and premises, with their appurtenances, for the purchase thereof or of any part thereof, for the purpose of widening, deepening, strengthening, maintaining, repairing, and amending any rivers, streams, watercourses, walls, banks, and other works, aids, and defences within the jurisdiction of commissioners of sewers, and for the loss or damage which such owners or persons may sustain thereby respectively; and it shall be lawful for all bodies politic, corporate, or collegiate, corporations aggregate or sole, tenants for life or in tail, husbands, guardians, trustees, feoffees in trust, executors, administrators, and all other persons whomsoever, not only for or on behalf of themselves, their heirs and successors, but also for or on behalf of the person entitled in reversion, remainder, or expectancy after them, and for or on behalf of their cestui que trusts, whether femes covert, infants, or issue unborn, lunatics, idiots, or other person whomsoever, and to and for all femes covert who are or shall be seised of or interested in their own right, and to and for every person whomsoever, who is or shall be possessed of or interested in any such lands, tenements, hereditaments, or premises, or who shall sustain any damage as aforesaid, to contract with the said commissioners for the sale thereof respectively, or for the satisfaction to be made for the same or for such damage as aforesaid, and by conveyance to convey unto the said commissioners all or any of such messuages, lands, tenements, hereditaments, or premises, or any part thereof, for the purposes aforesaid, in manner herein-after mentioned; and all contracts, sales, and conveyances which shall be so made shall be good, valid, and effectual, to all intents and purposes, without fine or recovery, and shall be a complete bar to all estates tail, and other estates, rights, titles, trusts, and interests whatsoeoer, any law, statute, usage, custom, or other matter to the contrary notwithstanding; and all such bodies politic, corporate, or collegiate, corporations aggregate or sole, tenants for life or in tail, husbands, guardians, trustees, feoffees, committees, executors, administrators, and all other persons shall be and are hereby indemnified for what they or any of them shall do by virtue or in pursuance of this act.

Form of conveyance to commissioners.

XXV. That all such conveyances of any lands, tenements, or hereditaments to be purchased by the said commissioners of sewers shall be expressed in the following or some similar form of words, as the circumstances of the case may require:

in consideration of the to me paid by six or more of the ' commissioners of sewers acting in and for several limits [here describe ' the limits as set forth in the commission of sewers], do hereby grant and

'release to the commissioners of sewers acting in and for the said 'limits all [describing the premises to be conveyed], and all my right, 3 & 4 W. 4, ' title, and interest in and to the same and every part thereof, to hold to the said commissioners, their successors and assigns for ever, by

No. I.

virtue of the several acts and laws now in force concerning sewers. In witness whereof I have hereto set my hand and seal this

in the year of our Lord day of

XXVI. That if any such body politic, corporate, or collegiate, corpo- Where persons rations aggregate or sole, tenants for life or in tail, husbands, guardians, shall neglect or trustees or feoffees, committees, executors, administrators, or any other refuse to treat, person interested in any such lands, tenements, hereditaments, or pre- &c., commismises, or sustaining any damage as aforesaid, upon notice to him or sioners to issue them given, or left in writing at the dwelling house or place of abode of their warrants such person, or of the principal officer of any such bodies politic, cor- to the sheriff to porate, or collegiate, corporations aggregate or sole, tenants for life or in impanel a jury. tail, or at the house of the tenant in possession of any such lands, tenements, hereditaments, or premises, shall, for the space of thirty days next after such notice given or left as aforesaid, neglect or refuse to treat, or shall not agree in the premises, or by reason of absence shall be prevented from treating, then and in every such case the said commissioners of sewers, or any six or more of them, are hereby empowered from time to time to issue out their warrant or warrants under their hands and seals to the sheriff, hailiff, or other returning officer of the county or place wherein the matter in question shall lie, or if such sheriff, bailiff, or other returning officer shall be immediately interested in such matter, then to one of the coroners of such county or place, commanding such sheriff, bailiff, or other returning officer, or coroner, to impanel, summon, and return a jury; and the said sheriff, bailiff, or other returning officer, or coroner, is hereby required accordingly to impanel, summon, and return twenty-four men, qualified according to the laws of this realm to be returned for trials of issues joined in his Majesty's courts at Westminster; and the persons so to be impanelled, summoned, and returned are hereby required to come and appear before the justices of the peace for the county or place in which such lands, tenements, hereditaments, or premises shall lie, or the matter in question or dispute shall arise, at some court of general or quarter sessions of the peace to be holden in and for the same county or place, or at some adjournment thereof, as in such warrant or warrants shall be appointed, in order that out of them a jury of twelve may be sworn, to inquire touching the matters in question; and in case a sufficient number of jurymen shall not appear at such time and place, the said sheriff, bailiff, or other returning officer, or coroner, shall return other honest and indifferent men that can speedily be procured to attend that service, to make up the said jury to the number of twelve; and all parties concerned may have their lawful challenges against any of the said jurymen; and the clerk of the peace for the said county or place, Jury may be or his deputy, is hereby empowered and required to summon before the challenged. said justices all such persons as shall be thought necessary to be examined as witnesses touching the matters in question, and may order Witnesses to be and authorize the said jury, or any six or more of them, to view the summoned, and place or places or matters in controversy; which jury (upon their oaths, examined upon to be administered by the said justices, which oaths, as also the oath to oath. such person as shall be called upon to give evidence, the said justices are hereby empowered to administer,) shall inquire of, assess, and ascer- Jury to assess tain the sum or sums of money to be paid for the purchase of such damages. lands, tenements, or hereditaments, or the recompence to be made for damages that may or shall be sustained as aforesaid, and to settle and ascertain in what proportions the sum or sums of money so assessed shall be paid to the several persons interested in the premises; and the said justices shall give judgment for such purchase monies or recom- Verdict of the pence so to be assessed by such juries; which said verdict, and the jury to be bind-

No. I. c. 22.

may impose a witnesses, &c.

judgment thereupon pronounced as aforesaid, shall be binding and con-3 & 4 W. 4, clusive to all intents and purposes against all parties, bodies politic, corporate, and collegiate, and all persons whomsoever.

XXVII. Provided always, That if any such sheriff, bailiff, or other Commissioners returning officer, or coroner, or his deputy or agent, shall make default in the premises, every such person shall for every offence forfeit the fine on sheriff, sum of twenty pounds; and if any person so summoned and returned as aforesaid on such jury shall not appear, or appearing refuse to be making default. sworn, or being sworn refuse to give his verdict, or in any other manner wilfully neglect his duty, contrary to the true intent of this act, or if any person so summoned to give evidence shall not appear, or appearing refuse to be sworn or examined or to give evidence, every person so offending, having no reasonable excuse, to be allowed by the said justices, shall for every such offence forfeit and pay such sum as the said justices shall appoint, not exceeding the sum of five pounds for any one offence.

Agreements to be filed with sewers.

XXVIII. That all the agreements, contracts, sales, and conveyances, and also all verdicts and judgments, which shall be made and given in the clerk of the relation to any such lands, tenements, and hereditaments as aforesaid, (such verdicts and judgments being certified by the clerk of the peace of the county or place in which such verdict and judgment shall have been given,) shall be delivered to and deposited with the clerk of the sewers for the county, limits, or district wherein such lands, tenements, or hereditaments are situate, and shall be filed with the rolls of the court or commissioners of sewers of such county, limits, or district; and the same, or a true copy thereof, shall be admitted as evidence in all courts whatsoever; and all persons shall have liberty to inspect the same, and take copies thereof, upon paying for every such inspection the sum of one shilling, and for every such copy not exceeding seventytwo words the sum of four-pence, and so in proportion for any greater number of words.

By whom costs nesses to be paid.

XXIX. That in case any such jury or juries shall deliver a verdict for of jury and wit- more money as a satisfaction for such lands, tenements, or property, or for any such loss or damage, than what shall have been offered by such commissioners for the same before the summoning or returning the said jury or juries, then and in such case the costs and expences of summoning and returning the said jury and witnesses, and all other expences attending the hearing and determining of such difference, shall be borne and paid by the said commissioners out of the same fund as the said purchase or compensation money is hereby directed to be paid; and such costs and expences shall be ascertained and settled by an officer of one of his Majesty's superior courts of record at Westminster, to be nominated, in case of dispute, in the county of Middlesex by the lord chief justice of the court of king's bench, and in every other county by the senior judge of the gaol delivery for the time being; but if any such jury or juries shall deliver a verdict for no more or for less money than shall have been offered by the said commissioners before the summoning such jury or juries, then such costs and expences (to be ascertained and settled in like manner) shall be borne and paid by the person with whom such commissioners shall have such controversy or dispute, and shall and may be levied by distress and sale of the goods and chattels of the person liable to pay the same, by warrant under the hands and seals of two justices of the peace for the county or place within which such verdict and judgment shall have been given; and the overplus (if any), after such costs and expences, and the charges of such distress and sale, are deducted, shall be returned, upon demand, unto the owner of such goods and chattels.

From what fund purchase tion monies are to be paid.

XXX. That every sum of money and recompence to be agreed for or assessed as aforesaid shall be paid for out of any monies in the hands and compensa- of the said commissioners which may be levied on the messuages, tenements, lands, and hereditaments which shall receive benefit or avoid damage by or from such widening, straightening, deepening, repairing,

No. I. 3 & 4 W. 4, c. 22.

and amending as aforesaid, or by or from making and maintaining any new walls, banks, sewers, guts, gotes, calcies, sluices, floodgates, cuts, and other works, aids, and defences; and upon payment to such parties or persons, or their agents, or left at their respective usual places of abode, or with the tenant in possession of such lands, tenements, hereditaments, and premises, or into the bank of England in manner directed by this act (as the case may be), then such lands, tenements, hereditaments, and premises respectively shall be vested in such commissioners, and shall and may be taken and used for straightening, widening, deepening, repairing, and amending such rivers, streams, ditches, gutters, sewers, and watercourses, or for making and maintaining any new walls, banks, sewers, guts, gotes, calcies, sluices, floodgates, cuts, and other works, aids, and defences; and all parties and persons whomsoever shall be divested of all right and title to such lands, tenements, and hereditaments.

XXXI. That if any money shall be agreed or assessed to be paid for Application of the purchase of any lands, tenements, or hereditaments purchased, compensation taken, or used, by virtue of the powers of this act, by any commissioners money exceedof sewers, which shall belong to any body politic, corporate, or colle-ing 2001. giate, or to any feoffee in trust, executor, administrator, husband, guardian, committee, or other trustee, or for or on behalf of any infant, lunatic, idiot, feme covert, cestui que trust, or to any other person whose lands, tenements, or hereditaments are or may be limited in strict or other settlement, or to any person under any other disability or incapacity whatsoever, such money shall, in case the same shall amount to or exceed the sum of two hundred pounds, with all convenient speed be paid into the bank of England in the name and with the privity of the accountant general of the court of exchequer, to be placed to his account there ex parte the commissioners of sewers for whom such lands, tenements, or hereditaments shall be taken, pursuant to the method prescribed by an act passed in the first year of the reign of his 1 G. 4, c. 85. late Majesty king George the fourth, intituled An Act for the better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant General and Two Masters of the said Court, and for other Purposes, and the general orders of the said court, and without fee or reward; to the intent that such money shall be applied, under the direction and with the approbation of the said court, to be signified by an order made upon a petition to be preferred in a summary way by the person who would have been entitled to the rents and profits of the said lands, tenements, and other hereditaments, in the purchase or redemption of the land tax, or in the discharge of any debt or debts, or such other incumbrances, or part thereof, as the said court shall authorize to be paid, affecting the same lands, tenements, or hereditaments, or affecting other lands, tenements, or hereditaments standing settled therewith to the same or the like uses, trusts, intents, or purposes; or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction and approbation of the said court, in the purchase of other lands, tenements, or hereditaments, which shall be conveyed and settled to, for, and upon such and the like uses, trusts, intents and purposes, and in the same manner, as the lands, tenements, or hereditaments which shall be so purchased, taken, or used as aforesaid stood settled or limited, or such of them as at the time of making such conveyance or settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such purchase shall be made the said money shall, by order of the said court, upon application thereto, be invested by the said accountant general in his name in the purchase of three pounds per centum consolidated or three pounds per centum reduced bank annuities; and in the meantime and until the said bank annuities shall be ordered by the said court to be sold for the purposes aforesaid the dividends and annual produce of the said consolidated or reduced bank an-

No. I. 3 & 4 W. 4, c. 22.

Application of compensation money when less than 2001. and not less than 201.

Application of compensation money when less than 20%.

Persons in possession to be deemed law-fully entitled to the premises until the contrary shall be shown to the court of exchequer.

If compensation money is refused, or titles not made, or if persons to whom money

ssed cannot and, mo-

nuities shall from time to time be paid, by the order of the said court, to the person who would for the time being have been entitled to the rents and profits of the lands, tenements, or hereditaments to be purchased as aforesaid, in case such settlement or purchase were made.

XXXII. Provided always, That if any money so agreed or assessed to be paid for any lands, tenements, or hereditaments purchased, taken, or used for the purposes aforesaid, belonging to any corporation, or to any person under any disability or incapacity as aforesaid, shall be less than the sum of two hundred pounds, and shall amount to or exceed the sum of twenty pounds, then and in all such cases the same shall, at the option of the person for the time being entitled to the rents and profits of the lands, tenements, or hereditaments so purchased, taken, or used, or of his guardian or committee in cases of infancy, idiotcy, or lunacy, to be signified in writing under their respective hands, be paid into the bank of England in the name and with the privity of the said accountant general, and be placed to his account as aforesaid, in order to be applied in manner herein-before directed; or otherwise the same shall be paid, at the like option, to two or more trustees to be nominated by the person making such option, and approved by six or more of the commissioners taking such lands, tenements, or hereditaments, such nomination and approbation to be signified in writing under the hands of the nominating and approving parties, in order that such principal money and the dividends and interest arising therefrom may be applied in manner herein-before directed, so far as the case be applicable, without obtaining or being required to obtain the direction or approbation of the said court of exchequer.

XXXIII. Provided also, That when such money so agreed or assessed to be paid as before mentioned shall be less than the sum of twenty pounds, then and in every such case the same shall be applied to the use of the person who would for the time being have been entitled to the rents and profits of the lands, tenements, or hereditaments so purchased, taken, or used as aforesaid, in such manner as the said commissioners, or any six or more of them, shall think fit; or in case of lunacy, idiotcy, or infancy, then to his guardian or committee, to and

for the use and benefit of such person so entitled.

XXXIV. That where any question shall arise touching the title of any person to any money to be paid into the bank of England in the name and with the privity of the accountant general of the said court of exchequer, in pursuance of this act, for the purchase of any lands, tenements, or hereditaments to be purchased in pursuance of this act, or to any bank annuities to be purchased with any such money, or to the dividends or interest of any such bank annuities, the person who shall have been in possession of such lands, tenements, or hereditaments at the time of such purchase, and all persons claiming under such person, or under the possession of such person, shall be deemed and taken to have been lawfully entitled to such land, tenements, or hereditaments, according to such possession, until the contrary shall be shown to the satisfaction of the said court of exchequer; and the dividends or interest of the bank annuities to be purchased with such money, and also the capital of such bank annuities, shall be applied and disposed of accordingly, unless it shall be made to appear to the said court that such possession was a wrongful possession, and that some other person was lawfully entitled to such lands, tenements, or hereditaments, or to some estate or interest therein.

XXXV. That in case the person to whom any sum or sums of money shall be assessed or agreed for the purchase of any lands, tenements, or hereditaments to be purchased by virtue of this act, shall refuse to accept the same, or shall not be able to make a good title to the premises to the satisfaction of the said commissioners or any six or more of them, or in case such person to whom such sum or sums of money shall be so assessed or agreed to be paid as aforesaid cannot be found, or if the person

entitled to such lands, tenements, or hereditaments be not known or discovered, then and in every such case it shall and may be lawful to 3 & 4 W. 4, and for the said commissioners, or any six or more of them, to order the said sum or sums of money so assessed or agreed to be paid as aforesaid to be paid into the bank of England in the name and with the privity ney to be paid of the accountant general of the court of exchequer, to be placed to his into the bank, account, to the credit of the parties interested in the said lands, tene_subject to order ments, or hereditaments (describing them), subject to the order, con- of court of extroul, and disposition of the said court of exchequer; which said court chequer. of exchequer, on the application of any person making claim to such sum or sums of money, or any part thereof, by motion or petition, shall be and is hereby empowered, in a summary way of proceeding, or otherwise, as to the said court shall seem meet, to order the same to be laid out and invested in the public funds, and to order distribution thereof, or payment of the dividends thereof, according to the estate, title, or interest of the person making claim thereunto, and to make such other order in the premises as to the said court shall seem just and reasonable; and the cashier of the bank of England who shall receive such sum or sums of money is hereby required to give a receipt for the same (mentioning and specifying for what and for whose use the same is received) to such person as shall pay any sum or sums of money into the bank of England as aforesaid.

XXXVI. Provided always, That where, by reason of any disability or Court of exincapacity of the person or corporation entitled to any lands, tenements, chequer may or hereditaments to be purchased under the authority of this act, the direct payment purchase money for the same shall be required to be paid into the court of expences in of exchequer, and to be applied in the purchase of other lands, tene-cases where ments, or hereditaments, to be settled to the like uses, in pursuance of purchases of this act, it shall and may be lawful to and for the said court of exchequer other lands are to order the expences of all purchases from time to time to be made in pursuance of this act, or so much of the expences as the said court shall deem reasonable, together with the necessary costs and expences of obtaining such order, to be paid by the said commissioners, or any six or more of them, who shall from time to time pay such sum or sums of money for such purposes as the said court shall direct; and the said commissioners shall and may reimburse themselves all such payments as shall be so made by them as aforesaid in the manner directed, and out of the rates to be raised, levied, and collected for such purposes respectively, under the powers and provisions of the said recited acts and

of this act. XXXVII. That it shall not be lawful for any court of sewers in making Houses and any new walls, banks, sewers, cuts, gotes, calcies, sluices, floodgates, buildings, &c. tumbling bays, and other works, reparations, amendments, aids, and not to be taken defences authorized to be made and executed by the said recited acts without conand this act, or any or either of them, to take down, remove, or make sent. use of any house or building, or any garden, yard, or paddock, or any park, planted walk, or avenue to a house, or any inclosed ground planted as an ornament or shelter to a house, or planted and set apart as a nursery for trees, or any part thereof respectively, without the consent in writing of the owner or proprietor thereof respectively, or of the person, body politic or corporate, hereby authorized to sell and convey as aforesaid, first had and obtained.

XXXVIII. That upon payment or legal tender of such sum or sums Vesting land in of money as shall have been contracted or agreed for between the par-commissioners ties, or assessed by such juries in manner aforesaid, for the purchase of of sewers on any such messuages, lands, tenements, hereditaments, and premises, or payment of as a compensation for losses or damages as herein mentioned, to the purchase moproprietor or proprietors of such messuages, lands, tenements, heredita-ney. ments, and premises, or to such other person or persons, bodies politic or corporate or collegiate, as shall be interested therein or entitled to receive such money or compensation respectively, within thirty days next after the same shall be so agreed for or assessed, or upon payment

No. I.

No. I. c. 22.

of such sum or sums of money, within the said thirty days, into the 3 & 4 W. 4, bank of England, in manner herein directed and required, for the use of the persons entitled thereto, it shall be lawful for the said commissioners, and their agents, servants, and workmen, to enter upon such messuages, lands, tenements, hereditaments, and premises respectively, and thenceforth such messuages, lands, tenements, hereditaments, and premises, together with the yearly profits thereof, and all the estate, use, trust, and interest of any person, bodies politic, corporate, or collegiate, therein, shall become and be vested in the said commissioners for ever; and such payment or tender shall not only bar all right, title, claim, interest, and demand of the person, bodies politic, corporate, or collegiate, to whom the same shall or ought to have been made, but also shall extend to and be deemed and construed to bar the dower of the wife of every such person, and all estates tail, and all other estates in reversion and remainder of his or their issue, and of every other person, bodies politic, corporate, or collegiate whomsoever therein.

Enabling commissioners to sell lands, &c. not wanted.

of adjoining

ground.

XXXIX. That it shall and may be lawful for commissioners of sewers. or any six of them, in whom any lands and hereditaments shall be vested by virtue of this act, to sell and dispose of the same or any part thereof, either together or in parcels, as they shall find most convenient and advantageous, to such person as shall be willing to contract for and purchase the same; and the money to arise and be produced by the sale or sales which may be made by the said commissioners of sewers of any land or hereditaments as aforesaid shall be applied to the purposes of making and maintaining sewers works in the limits, valley, level, or district in which such land or hereditaments so sold as aforesaid shall lie or be, but the purchaser thereof shall not be answerable or accountable for any First offer to be misapplication or nonapplication of such money: Provided always, that given to owners the said commissioners of sewers, before they shall sell and dispose of any such land or hereditaments, shall first offer to sell the same to the owner of the adjoining land or ground; and an affidavit made and sworn before a master or master extraordinary in the high court of chancery. or before one of his Majesty's justices of the peace for the county, riding, or division in which such land and hereditaments shall lie, by some person not interested in the premises, stating that such offer was made by or on behalf of the said commissioners, and that such offer was not then and thereupon agreed to or was refused by the person to whom the same was so offered, shall in all courts whatever be sufficient evidence and proof that such offer was made, and was not agreed to or was refused by the person to whom such offer was made (as the case may be); and in case such person shall be desirous of purchasing the same, and he and the said commissioners shall differ and not agree with respect to the price thereof, in such case the price thereof shall be ascertained by a jury in manner herein-before directed with respect to the disputed value of premises to be purchased by commissioners of sewers in pursuance of this act; and the expence of hearing and determining such difference shall be borne and paid in like manner as herein-before directed with respect to purchases made by the said commissioners of sewers, *mutatis mutandis.*

Form of conveyance from

XL. That all such conveyances of any lands, tenements, or hereditaments to be sold and disposed of by the said commissioners of sewers commissioners. shall be expressed in the following or some similar form of words, as the circumstances of the case may require:

> of the commissioners of sewers acting in and for several limits '[here describe the limits as set forth in the commission of sewers], in ' consideration of the sum of 'us paid by of do bereby grant all [describing the premises and release to the said 'to be conveyed], and all right, title, and interest of the commissioners ' of sewers in and to the same and every part thereof, to hold unto the

his heirs, executors, administrators, and ' said No. I. 'assigns for ever. In witness whereof we have hereto set our hands 3 & 4 W. 4,

and seals this day of in the c. 22. ' Year of our Lord

XLI. That it shall and may be lawful for courts of sewers, from time Power to borto time as occasion shall require, to borrow and take up at interest any row and take sum or sums of money for the purchase of messuages, lands, tenements, up money at or hereditaments, or for defraying the costs, charges, and expences of interest for any work or works required to be done within the respective limits of making and their commission, for making, repairing, and maintaining any sea bank, maintaining works. wall, or other defence or defences, against any violent irruption or encroachment or apprehended encroachment of the sea or rivers, or for the making and maintaining any new cut, or for the more effectual and better draining and carrying off the floods and superfluous fresh waters, or for the building, constructing, repairing, amending, renewing, and maintaining any floodgates, sluices, bridges, dams, or other necessary works, or for any other construction, work, matter, or thing which the said court shall judge necessary or expedient for the more effectual defence, security, and improvement of the lands, grounds, tenements, and hereditaments within the jurisdiction of such court of sewers; and the repayment of such sum and sums of money, with interest, shall and may from time to time be secured to the party lending the same upon or by virtue of a decree or ordinance under the hands and seals of the commissioners, or any six of them, (which decree and ordinance they are hereby authorized to make,) charging the lands, tenements, and hereditaments receiving benefit or avoiding damage from the said several works, and the owners or occupiers, or owners and occupiers for the time being thereof, with the payment of such sum and sums of money, with interest, according to the proportions and in the manner returned in and by any presentment touching or concerning the costs and charges of such last-mentioned works, or the lands, grounds, tenements, and hereditaments receiving benefit or avoiding damage thereby: Provided always nevertheless, That no such money shall be borrowed or taken up at interest as aforesaid without the consent in writing, certified to the said commissioners or any six of them, of the owners and occupiers respectively, or their respective husbands, guardians, trustees or feoffees, committees, executors or administrators, of three fourth parts at the least in value of the lands and hereditaments lying within the valley, level, or distinct proposed to be charged with the repayment thereof: Provided also, That no person being the owner for the time being of any lands, tenements, or hereditaments shall be chargeable or liable, in respect of such lands, tenements, or hereditaments, for or towards any principal money borrowed or taken up as aforesaid, with or to the payment of any greater sum of money than one-fifth part of the value of such lands, tenements, or hereditaments at the time of borrowing or taking up the same: Provided also, That it shall be provided, expressed, and declared in and by the said decree and ordinance, that the sum or sums of money so borrowed and taken up thereon shall be repaid within a time to be named in such decree and ordinance, not being for a longer period than fourteen years from the making thereof, by equal annual or shorter instalments, together with interest on the sum or sums so borrowed or taken up, or on such part thereof as shall from time to time remain due and unpaid; and the said last-mentioned decree and ordinance shall be and remain in full force and effect until such sum and sums of money, and all interest thereon, shall have been fully paid and satisfied; any thing in the said recited acts or this act contained, or any custom or usage, to the contrary notwithstanding.

XLII. And for facilitating the raising, securing, and paying off from Courts of time to time of the monies which it may be necessary so to raise and sewers may borrow as aforesaid, be it further enacted, That it shall and may be grant securities lawful for any court of sewers from time to time to grant securities, in to persons ad-

vancing money

No. I. 3 & 4 W. 4, c. 22.

the form of a certificate, under the hands and seals of six of the said commissioners, to each person who shall so advance any sum of money as aforesaid, setting forth the amount of the sum borrowed, the rate of interest payable for the same, the periods at which the said principal money shall be decreed to be paid off by instalments, and a general description of the particular lands, or, if by assessment, the district, limit, or level in which the lands are situate, which are to be charged with the repayment thereof; and that every such security or certificate shall be made in the following words, or by any other words to the same purport and effect:

Form of security.

BY virtue of an act passed in the third year of the reign of his Majesty king William the fourth, intituled [here insert the title of this 'act], we the undersigned, being six of the commissioners [here insert ' the general description of the commission under which they act], in consideration of the sum of of lawful money of Great 'Britain to [here insert the name of the receiver of the district] lent and do hereby certify, that [here describe paid by the particular lands, or, if by assessment, the valley, level, or limit in which the lands are situate, which are to be charged, are become charged with the repayment of the said sum, in instalments of one part on the day of in every year, together with interest on such part of the said principal money as shall remain unpaid from time to time at and after the rate of pounds per centum per annum, until ' the whole thereof shall be repaid; which sum so lent and advanced by the said is part of a capital sum of on the

'which at a court of sewers holden at

last was decreed and ordered to be taken up and 'borrowed for the purpose of [here briefly state the general cause or 'object of borrowing the money]. In witness whereof we have hereunto ' set our hands and seals the day of

Securities may be transferred.

XLIII. That every person, body politic, corporate, collegiate, aggregate, or sole, who shall be entitled to the money thereby secured, and his, her, or their executors, administrators, and successors, may from time to time personally, or by attorney thereunto lawfully authorized, assign or transfer his or their right, title, interest, or benefit to the said principal and interest money thereby secured to any person whatsoever, by indorsing on the back of such security, in the presence of one credible witness, who shall subscribe his name thereto, the following words, or words to the like effect:

Form of transfer.

[Or We] [A. B. of, &c.], in consideration of the sum of to me this day paid by [C. D. of, &c.], do hereby transfer the within ' certificate of charge, with all my right and title to the principal money ' thereby secured and now remaining due thereon, and to all the interest ' money now due or hereafter to become due, unto 'his [her, or their] executors, administrators, successors, and assigns ' [as the case may be]. Given under my hand and seal this 'day of Witness,

produced to clerk to commissioners, and to be registered by him.

Transfers to be Which transfer shall be produced and notified to the clerk for the time being of the said commissioners before the party holding the same transfer shall be entitled to receive any principal or interest due or owing as aforesaid; and every such clerk shall make an entry amongst the records of the said commissioners of the particulars of every such transfer, and indorse a minute of such entry upon the back of every such transfer, signed by such clerk, and for which entry and minute he shall be entitled to a fee of five shillings, and no more.

Courts of 'a'd out of the

XLIV. And whereas it has been found in some instances difficult or sawers may be inconvenient to hold courts of sewers within the limits or districts of the commission under or by virtue whereof such courts have been held, by reason that no house or other sufficient building could be procured 3 & 4 W. 4, within such limits or districts; be it therefore further enacted, That it shall and may be lawful for commissioners acting under any commission of sewers to hold courts of sewers at any place not being at a greater limits of the distance than five miles from the limits or districts of such commission. commission.

XLV. That all laws, acts, decrees, constitutions, and ordinances Allacts of comheretofore made, done, decreed, and ordained at or by any court of missioners done sewers holden without the limits or district of the commission under or without the disby virtue whereof such court has been holden, but within five miles of trict of the the limits or district of such commission, shall be and they are hereby commission, declared to be as valid and legal, and shall henceforth be and remain in but within five as full force and virtue, as if the same laws, acts, decrees, constitutions, miles thereof, and ordinances had been made, done, decreed, and ordained at a court to be valid. of sewers holden within the limits or district of the commission under or by virtue whereof such court was holden; any statute, law, usage, or

custom to the contrary notwithstanding.

XLVI. And whereas in many cases the burthen of supporting, re- Several depairing, and maintaining a common sea wall, bank, sewer, or other faults may be work may be divided among divers persons, each of whom may be liable included in one to the repair of a certain portion thereof; and in order to avoid the presentment, necessity of presenting each such person separately in respect of the and separately property of such common see well book sewer or other work be it traversed. nonrepair of such common sea wall, bank, sewer, or other work, be it further enacted, That it shall be lawful for any sewer's jury, bailiff, surveyor, expenditor, or other person to present the whole of such sea wall, bank, sewer, or other work respectively, or such part thereof respectively as shall at any time be out of repair or require cleansing, and to allege in such presentment what persons or bodies politic or corporate are liable to the repair thereof, and also to specify what part or portion of such sea wall, bank, sewer, or other work each such person, body politic or corporate, is bound or liable to repair, without making a separate and distinct presentment against each such person or body politic or corporate; and upon twenty-eight days' notice of such presentment to be left with, or at the last or usual place of abode or office of such person, body politic or corporate, each such person, body politic or corporate, shall be at liberty to traverse the allegation contained in such presentment as to his liability to the repair of such part of such sea wall, bank, sewer, or other work as in such presentment is alleged against him; and trial of such traverse shall be thereupon had as if such presentment had been solely and exclusively made against such person, body politic or corporate, so traversing the same as aforesaid.

XLVII. That the property of and in all lands, tenements, heredita- Property in ments, buildings, erections, works, and other things which shall have lands, buildbeen or shall hereafter be purchased, obtained, erected, constructed, and ings, goods, &c. made by or by the order of, or which are or shall be within or under vested in comthe view, cognizance, or management of any commissioners of sewers, missioners. with the several conveniences and appurtenances thereunto respectively belonging, and also all and singular the goods, tools, utensils, materials, and things whatsoever had and to be had, bought, procured, or provided by or by the order of, or which are or shall be within or under the view, cognizance, or management of such commissioners, shall be and the same are hereby vested in the commissioners of sewers within or under whose view, cognizance, or management such lands, tenements, hereditaments, buildings, erections, works, goods, tools, utensils, materials, and things shall respectively be, who are hereby empowered to bring or cause to be brought any action or actions, or to prefer or order the preferring of any bill or bills of indictment, against any person who shall dig up, break or pull down, damage, destroy, injure, spoil, steal, take or carry away, or wilfully and wrongfully buy or receive, any such lands, tenements, hereditaments, buildings, erections, works, goods, tools, utensils, materials, and things whatsoever as aforesaid, or any part thereof; and in every such action and indictment the

No. I.

No. I. 3 & 4 W. 4, c. 22.

Officers to account when required.

said lands, tenements, hereditaments, buildings, erections, works, goods, tools, utensils, materials, and things shall be laid or described to be the property of the said commissioners, without stating or specifying the name or names of all or any of such commissioners.

XLVIII. That every clerk, treasurer, collector, receiver, and other officer appointed and to be appointed by any court of sewers shall, as often as required by such court, render and give to the said court, or to such person as it shall for that purpose appoint, a true, exact, and perfect account in writing under their respective hands, and produce and deliver unto the said court, or to such person as aforesaid, proper vouchers of and for all monies which they shall respectively before the time of rendering such accounts have received, paid, and disbursed for or on account or by reason of their respective offices; and in case any money so received by any such officer shall remain in his hands, the same shall be paid by him to such person as the said court shall authorise and empower to receive the same; and if any such officer shall refuse or wilfully neglect to render and give such account, or to produce and deliver up such vouchers, or shall, for the space of fourteen days after being thereunto required by the said court, refuse or neglect to render, give, produce, and deliver up to them, or to such person as they shall direct or appoint, such true and perfect account, and all or any such vouchers as aforesaid, and all or any books, papers, writings, matters, and things in his hands, custody, or power, it shall and may be lawful for the said court, in a summary way, to cause such money as shall appear to be due and unpaid from such officer to be levied by distress and sale of the goods and chattels of such officer, rendering to such officer the overplus (if any), on demand, after payment of the money remaining due, and deducting the charges and expences of making such distress and sale; and if sufficient distress cannot be found, or if any such officer shall refuse or wilfully neglect to render such account, or to deliver up all or any vouchers, books, papers, writings, matters, or things in his custody or power relating to the execution of his office, the said court shall or may commit him to any house of correction or common gaol of the county, city, or liberty in which such court of sewers shall have jurisdiction, there to remain without bail or mainprize until he shall have made and given a true and perfect account, and shall have delivered up the vouchers relating thereto, and shall have paid the money (if any) remaining in his hands as aforesaid, according to the directions of the said court, or shall have compounded with the said court for such money, and paid such composition according to their direction (which composition the said court is hereby empowered to make and receive), or until he shall have delivered up all such books, papers, and writings, matters and things as aforesaid, or have given satisfaction to the said court concerning the same; but no such officer who shall be committed on account of his not having sufficient goods and chattels as aforesaid shall be detained in prison by virtue of this act for any longer time than six calendar months.

Removing officer from the possession of the property of courts of sewers.

XLIX. That if any officer or servant of any court of sewers who shall be by such court discharged from his office shall be in possession of any houses, buildings, lands, floodgates, sluices, dams, works, materials, tools, or implements so belonging to or vested in any such commissioners of sewers as aforesaid, and shall refuse to deliver up the possession thereof within two days after notice of his being discharged and of his being required to deliver up the same shall be given to him, or left at his last or most usual place of abode, or if the wife, widow, family, or representatives of any such officer or servant who shall happen to die, shall, after like notice given to her, them, any or either of them, refuse to deliver up possession of the same within the like time after she, they, or either of them shall be required so to do, then and in either of the said cases it shall and may be lawful for any such court of sewers for the county, limits, or district wherein the same property, matter, or thing refused to be delivered up may be, by warrant under

the hands and seals of six commissioners of sewers for the county, limits, or district, to order a constable or other peace officer, with such 3 & 4.W. 4, assistance as shall be deemed necessary, to enter any such houses, buildings, lands, floodgates, sluices, dams, or other works so refused to be delivered up, in the day-time, and to remove the persons who shall be found therein, together with their goods, out of such premises, and also to take possession of the same, and of all such other property, matters, and things belonging to or vested in the said commissioners of sewers as shall be so refused to be delivered up as aforesaid, and to put the said commissioners, or their officer or servant, in possession thereof.

No. I. c. **22**.

L. That it shall be lawful for any court of sewers to take such Courts of security from every treasurer, receiver, collector, expenditor, and other sewers may ministers and officers, as to such court shall seem meet, for the just take security and faithful execution of such office or trust, and such security shall be from officers given by bond or bonds to the clerk for the time being to the said com- and sue for formissioners of sewers; and in case of forfeiture it shall be lawful for the feitures. said court of sewers to sue upon such bond or bonds in the name of the clerk to the said commissioners of sewers for the time being, and to carry on such suit at the costs and charges and for the use and benefit of the fund for the security of which such bond or bonds shall have been taken, fully indemnifying and saving harmless such clerk from all costs and charges in respect of such suit from and out of such fund; and no action or suit to be brought or commenced in the name of the clerk in the manner aforesaid shall abate or be discontinued by the death, resignation, or removal of such clerk, or by the expiration of any commission of sewers or other authority under which the said clerk may act as aforesaid.

LI. That it shall not be lawful for any court of sewer to continue or Treasurer and appoint the person who hath been or who may be appointed their clerk clerk not to be in the execution of any commission of sewers, or the partner of any such the same perclerk, or the clerk or other person in the service or employ of any such son. clerk, or the clerk or other person in the service or employ of the partner of such clerk, the treasurer for the purposes of the said recited acts or of this act, or to continue or appoint any person who hath been or who may be appointed treasurer, or the partner of any such treasurer, or the clerk or other person in the service or employ of any such treasurer, or the clerk or other person in the service or employ of the part. ner of such treasurer, the clerk of the said commissioners; and if any person shall continue in or accept both the offices of clerk and treasurer in the execution of any commission of sewers, or if any person being the partner of any such clerk, or the clerk or other person in the service or employ of any such clerk or of his partner, shall continue in or accept the office of treasurer, or shall act as deputy of such treasurer, or shall in any manner officiate for such treasurer, or being the partner of any such treasurer, or the clerk or other person in the service or employ of any such treasurer or of his partner, shall continue in or accept the office of clerk in the execution of any commission of sewers, or shall act as deputy of such clerk, or shall in any manner officiate for such clerk, or if any such treasurer shall hold any place of profit or trust under such court of sewers other than that of treasurer, every such person so offending shall for every such offence forfeit and pay the sum of one hundred pounds to any person who shall sue for the same to be recovered, together with full costs of suit, in any of his Majesty's courts of record at Westminster, by action of debt or on the case, or by bill, suit, or information, wherein no essoign, protection, or wager of law, nor more than one imparlance, shall be allowed.

LII. And for the better carrying into execution the powers and au- Constables to thorities of the said commissioners of sewers, be it further enacted, That obey orders of all and every chief and petty constables, headboroughs, and tithingmen, commissioners. or by whatsoever other name or names such chief or petty constables may be called or known, and other peace officers, of or within the re-

No. I. c. 22.

spective hundreds, parishes, townships, liberties, districts, or places 3 & 4 W. 4, within the jurisdiction of the said respective courts, shall and they are hereby authorized and required to obey and execute all and every the orders, warrants, precepts, or other process which may be to them directed by the said commissioners; which said commissioners respectively are hereby authorized to direct such their orders, warrants, precepts, or other process to such chief or petty constables, headboroughs, tithing-Fines, &c. may men, and other peace officers accordingly.

be levied by warrant of commissioners of sewers.

LIII. That no fine, amerciament, penalty, or forfeiture which from and after the passing of this act shall be set or imposed by any commissioners of sewers upon any person, body politic or corporate, for not cleansing, scouring, repairing, or maintaining, or for obstructing or injuring, any of the walls, ditches, banks, gutters, sewers, gotes, bridges, and streams, or for any other cause, matter, or thing, within the jurisdiction of the said commissioners respectively, shall hereafter be returned or estreated into the court of exchequer; but that the same fines, amerciaments, penalties, and forfeitures, and all penalties and forfeitures imposed by this act, except as herein otherwise provided, shall and may be demanded and received by the treasurer, clerk, expenditor, or other person appointed by the said commissioners to receive the same, and if not paid upon demand shall and may be levied by distress and sale of the goods and chattels of the person, body politic or corporate, upon whom such fines, amerciaments, penalties, or forfeitures shall or may be so set or imposed, by warrant under the hands and seals of the said commissioners, or any six or more of them, together with the costs and charges of such distress and sale, rendering the overplus (if any) to the party or parties entitled thereto; which warrant the said commissioners are hereby authorized to issue; and the said fines, amerciaments, penalties, and forfeitures, when so received or levied, shall and may be applied by the said commissioners to such and the same uses and purposes as the monies raised, levied, or set apart by the said commissioners for defraying and reimbursing the general expences of executing the commission of sewers under which they shall or may act or may be applicable.

Form of warfines, &c.

LIV. That the warrant authorizing the levying of any such fine, rant for levying amerciament, penalty, or forfeiture payable by virtue of this act may be in the words or to the effect following:

'To our bailiff of sewers,

our collectors, and to each and every of them, and to all con-

and

* stables and other peace officers.

WHEREAS at the court [or session] of sewers holden for the limits [here state the name of the commission] on the last, A. B. of in the county of carpenter, was fined [amerced, or otherwise, as the case may be in the sum of which sum it hath ' this day been proved to us, the undersigned, being six or more of the justices and commissioners of sewers for the aforesaid limits, by the duly appointed to receive the ' same fine [amerciament, penalty, or forfeiture, as the case may be] that the said hath neglected or omitted to pay when demanded of him: These are therefore to authorize and ' command you, any or either of you, to levy the said sum of by distress and sale of the goods and chattels of

' the said together with the costs and 'charges of such distress and sale, rendering the overplus, if any, to the said Given under our hands and ' seals the in the year day of

' of our Lord one thousand eight hundred and

LV. That in all and singular the orders, decrees, or other proceedings Commissioners may decree and hereafter to be made touching or concerning any matter or thing within nssess costs;

the jurisdiction of any court of sewers, it shall and may be lawful to and for any such court of sewers to order and decree that the costs, 3 & 4 W. 4. charges, and expences of and incidental to the making and putting in force such order or decree, orders or decrees, shall be paid and borne by the person body politic or corporate, upon or against whom, or by reason of whose default, or for whose benefit, such order or decree, orders or decrees, shall respectively be made, which costs, charges, and expences shall and may be ascertained and settled by or by the authority of any such court of sewers; and when any such costs, charges, and expences shall be ordered and decreed to be paid as aforesaid, and such order or decree, orders or decrees, shall not be previously altered, reversed, or quashed by or at any subsequent court of sewers, or by any other court or courts, upon removal of the same by certiorari or otherwise, the same costs, charges, and expences shall and may, at any time after the court of sewers immediately following the granting or passing of such orders or decrees respectively, such court being at the distance of twenty-one days at the least from the service of such orders or decrees respectively, be levied and raised, together with the costs and charges of raising and levying the same, by distress and sale of the goods and chattels of the person, body politic or corporate, by whom the same shall or may respectively be ordered or decreed to be paid as aforesaid, by the bailiff, expenditor, surveyor, or other known officers of the said commissioners of sewers for the time being, or by any constable or peace officer or any other person to be named in and by such orders or decrees respectively, without any further order or decree of the said court of sewers: Provided always, That if no such distress or distresses as aforesaid can be and in default found, the same costs, charges, and expences, together with the costs of distress may and charges of raising and levying the same, shall and may be raised raise the same and levied upon and out of the lands, tenements, and hereditaments, upon the lands within the limits of the commission under and by virtue of which the of the desame orders and decrees shall respectively be made, of or belonging to faulters. the person, body politic or corporate, upon or against whom such orders and decrees shall respectively be made, in such and the same manner as the same would have been leviable if the same lands, tenements, or hereditaments had been lawfully assessed in the amount or respective amounts of the same costs, charges, and expences to or for a lawful scot, rate, or assessment for the purposes of the same commission, and the same lands, tenements, and hereditaments shall be subject to all such and the same orders and decrees as the same would have been subject to, and such orders and decrees shall be of the same force and authority as if the same costs, charges, and expences were a lawful scot, rate, or assessment as aforesaid, and unpaid.

No. I. c. 22.

LVI. Provided also, That all and every sum and sums of money Appropriation which shall or may be raised or levied by or for the costs, charges, and of costs when expences of any officer of sewers as aforesaid shall be paid into the levied. hands of the treasurer or expenditor of the said commissioners acting for the district in or for which the orders or decrees shall respectively be made, and shall be paid, applied, and disposed of, so far as the same will extend, in defraying and reimbursing the costs, charges, and expences which shall have been so incurred as aforesaid, subject to such order and disposition of the said commissioners, as they or any six or more of them shall deem to be just and reasonable.

LVII. That commissioners of sewers may sue and be sued at law or Commissioners in equity for or concerning any matter or thing whatever, or for or re- of sewers may lating to the lands and hereditaments or other property vested or to sue and be become so vested in them as aforesaid, or to any river, stream, sewer, sued in the wall, bank, or other work or matter within or under the view, cogni- name of their zance, management, or jurisdiction of such commissioners, in the name clerk. of any one commissioner, or in the name of their clerk for the time being; and in any action or actions of ejectment which shall or may be brought or prosecuted by the said commissioners for recovering the possession of such houses, buildings, or other property so vested in

No. I. c. 22.

them as aforesaid, it shall be sufficient to lay the demise in such action 3 & 4 W. 4, or actions in the names of six commissioners, or in the name of such clerk; and no action or suit to be brought or commenced by or against the said commissioners or the said clerk in manner aforesaid shall abate or be discontinued by the death, resignation, or removal of such commissioners or of such clerk, or by the expiration of any commission of of sewers or other authority under which the said commissioners or clerk may act as aforesaid; provided that no execution shall issue or be had in any such action or suit against such commissioners or clerk until six months shall have elapsed after final judgment in such action or suit shall have been obtained.

Clerks and commissioners to be reimbursed.

LVIII. Provided always, That every such clerk in whose name any such action or suit shall be brought, commenced, or sued, and every such commissioner of sewers whose name shall be used in any bill, information, prosecution, or indictment, in pursuance of this act, and that every such commissioner of sewers in whose name the said commissioners shall so sue or be sued as aforesaid, shall be fully reimbursed and paid all such costs, charges, damages, and expences as by the event or in consequence of any such action, suit, bill, information, indictment, or prosecution he shall pay, sustain, or be put unto, or become chargeable with or liable to by reason of his being plaintiff or defendant as aforesaid, or his name being used as aforesaid, by and out of the monies that shall be in or come to the hands of the said clerk or of the treasurer or expenditor for the time being as such clerk, treasurer, expenditor, or by and out of the monies to arise and be collected by a scot, rate, or tax to be granted, raised, and levied, under the authority and direction of the said commissioners of sewers having authority to raise and levy such scot, rate, or tax, or such of them as shall be authorized to act on behalf of themselves and the others, as the case may be, on the scotable, rateable, or taxable lands, tenements, and hereditaments, the district for which he or they so acts or act, or hath or have acted as clerk as aforesaid, or for which he is so authorized to act as aforesaid; and which said scot, rate, or tax may be levied and raised under and by virtue of this act for the purposes aforesaid.

Clerk, being plaintiff may be a witness.

LIX. Provided always, and be it further enacted, That the clerk being the plaintiff, prosecutor, or defendant in any such actions, suits, proceedings, prosecutions, or indictments as aforesaid shall not affect the competency of such clerk to be a witness in any such actions, suits, prosecutions, and indictments, in the same manner as he might have been if his name had not been made use of as the plaintiff, prosecutor, or defendant in any such actions, suits, proceedings, prosecutions, or

Rule for the interpretation and terms of this act.

LX. That the words "court" and "court of sewers" in this act shall respectively be deemed to mean every court, sessions, assemblage, of certain words or meeting of any six or more commissioners of sewers (three whereof being of the quorum) named in any commission of sewers, and acting in the execution thereof; and wherever in this act any word or words is or are used or employed importing the singular number or the masculine gender only, such word or words shall extend to and shall be construed to include several persons as well as one person, and females as well as males, and a body or bodies politic, corporate, or collegiate, corporation or corporations aggregate or sole, as well as individuals, unless it be otherwise specially directed or provided for.

This act not to local act.

LXI. That nothing in this act contained shall extend or be construed prejudice any to extend to affect, alter, abridge, or interfere with any local or private act of parliament for sewers concerning any county, city, town, district, lands, or limits, or any commission of sewers in the county of Middlesex, within the distance of ten miles from the Royal Exchange in the city of London, except such parts of the said county as may lie within any commission of sewers of the county of Essex; or to affect, alter, abridge, or interfere with any navigable river, canal, port, or harbour under the management or power of any commissioners, trustees, or

proprietors by virtue of any local or private act of parliament; or to affect, alter, abridge, or interfere with any charter, law, usage, or custom 3 & 4 W. 4, in or concerning Romney Marsh in Kent, or the great level of the fens called Bedford Level.

No. I. c. 22.

LXII. That nothing in this act contained shall extend or be construed Saving rights of to extend to repeal, or in anywise affect, alter, abridge, or interfere with the city of Lonthe commissioners of sewers of the city of London and liberties thereof, don. or the rights, powers, or privileges of the mayor and commonalty and citizens of the city of London, in relation to the sewers, drains, vaults, and bridges within the said city or liberties, or any act or acts of parliament heretofore made for making, amending, defending, widening, altering, or cleansing the said sewers, drains, vaults, and bridges within the said city and liberties.

[No. II.] 4 & 5 W. IV. c. 42.—An Act to facilitate the taking of Affidavits and Affirmations in the Court of the Vice-Warden of the Stannaries of Cornwall.

[30th July 1834.]

WHEREAS suitors and others having business in the courts of the stanneries, held by the vice-warden of the said stannaries, can make affidavits or affirmations relating thereto before the vice-warden only; and it is expedient, and will be for the benefit of such suitors and others, that other persons as well as the said vice-warden have authority to take such affidavits or affirmations: Be it therefore enacted, &c. That Commissioners any commissioner of any of the superior courts of common law at West- of superior minster, having by commission from such courts or any of them autho- courts of comrity to take affidavits in matters relating to such courts or any of them, mon law at may, without fee or reward, apply for and have, by commission from Westminster, the said vice-warden, under the seal of the stannaries kept by him, au- having comthority to take affidavits or affirmations in all suits and matters relating missions from thereto brought into the court of the said vice-warden by way of appeal the stannaries, from the courts of the stewards of the said stannaries; and that any empowered to master extraordinary of his Majesty's high court of chancery may, with- take affidavits out fee or reward, apply for and have, by like commission from the said in the court of vice-warden, authority to take affidavits or affirmations in all other suits, the vice-warpetitions, or matters to be commenced or being in the court of the said den. vice-warden; and that all and every person and persons wilfully swearing Persons swearor affirming falsely in any affidavit to be made before any person so au- ing falsely bethorized to take affidavits or affirmations as aforesaid shall be deemed fore them guilty of perjury, and be liable to the penalties of perjury, and be there-guilty of perfore prosecuted in any court of competent jurisdiction.

II. That this act shall commence and take effect on the first day of Commence-October one thousand eight hundred and thirty-four.

III. That this act shall be deemed and taken to be a public act, and Public act. shall be judicially taken notice of as such by all judges, justices, and others.

[No. III.] 5 & 6 W. IV. c. 94.—An Act for amending and consolidating the Acts of Parliament for the Recovery of Small Debts in the City of London and the Liberties thereof, and for enabling the Goods of the Debtors to be taken in Execution (1). [21st August 1835.]

WHEREAS, before the passing of the act of parliament first hereinafter recited, the lord mayor and aldermen of the city of London,

⁽¹⁾ This statute is printed among the local acts, but its importance justifies its insertion in the present work.

No. III. c. 94.

by virtue of divers acts of common council made within the said city 5 & 6 W. 4, for the relief of poor debtors dwelling within the said city, were accustomed monthly to assign two aldermen and twelve discreet commoners to be commissioners, and sit in the court of requests in the Guildhall of the same city, to hear and determine all matters of debt not amounting to the sum of forty shillings to be brought before them: And whereas, for the more perfect establishment of the said court, an act was passed

1 Jac. 1, c. 14. in the first year of the reign of king James the first, intituled An Act for Recovery of Small Debts and relieving of poor Debtors in London: And whereas an act was passed in the third year of the reign of king

3 Jac. 1, c. 15. James the first, intituled An Act for the recovering of Small Debts and for the relieving of poor Debtors in London: And whereas an act was passed

14 G. 2, c. 10. in the fourteenth year of the reign of king George the second, intituled An Act to explain and amend an Act made in the Third Year of the Reign of King James the First, intituled ' An Act for the recovering of Small Debts and for the relieving of poor Debtors in London: And whereas an act

25 G. 3, c. 45. was passed in the twenty-fifth year of the reign of king George the third, intituled An Act for reducing the Time for the Imprisonment of Debtors committed to Prison upon Prosecutions in Courts of Conscience in London, Middlesex, and the Borough of Southwark, to the same Periods in each

Court, and for abolishing Fees paid by those Debtors to Gaolers or others on account of such Imprisonment: And whereas an act was passed in the 39 & 40 G. 3, thirty-ninth and fortieth years of the reign of king George the third, intituled An Act to explain, amend, and render more effectual an Act passed

in the Third Year of the Reign of King James the First, intituled ' An Act for the recovering of Small Debts and for the relieving of poor Debtors in London,' and an Act passed in the Fourteenth Year of the Reign of his late Majesty King George the Second, to explain and amend the above-mentioned Act; and likewise for extending the Powers of the Court of Requests in the

City of London in and by the said Two several Acts continued and established: And whereas it would facilitate the proceedings of the said court, and the encouragement of trade in the said city and the liberties thereof, if the provisions of the said recited acts were consolidated, and

better and more extensive powers were granted for the more speedy recovery of debts of greater amount: May it therefore please your Ma-

jesty that it may be enacted; and be it enacted, &c. That the said recited except 25 G. 3, acts of the first year of the reign of king James the first, the third year c. 45, repealed. of the reign of king James the first, the fourteenth year of the reign of

king George the second, and the thirty-ninth and fortieth years of the reign of king George the third, and all and every the clauses, powers, provisions, matters, and things therein respectively contained, shall, from the thirtieth day of September one thousand eight hundred and

thirty-five, be and the same are hereby repealed; and none of the said recited acts or parts thereof which have been repealed by other of the

same acts shall be hereby revived.

Recited act repealed as to

London.

Not to revive

repealed acts.

II. That the said recited act of the 25th year of the reign of king 25 G. 3, c. 45, George the third, and all and every the clauses, powers, provisions, matters, and things therein contained, shall, so far only as relates to the said court of requests of the city of London and liberties thereof, and the debtors committed therefrom from the said thirtieth day of September one thousand eight hundred and thirty-five, be and the same are hereby repealed.

Acts done in pursuance of former acts to be valid.

III. Provided always nevertheless, That all acts, judgments, orders, and decrees made or to be made by the commissioners appointed by virtue of the said recited acts or any of them on or before the said thirtieth day of September one thousand eight hundred and thirty-five, and all acts, executions, distresses, imprisonments, penalties, forfeitures, and proceedings to be done, suffered, incurred, recovered, or executed in pursuance of such judgments, orders, and decrees, or any of them, either on or before or after the said thirtieth day of September one thousand eight hundred and thirty-five, shall be valid and effectual in the same manner to all intents and purposes as if the said judgments,

Recited acts,

c. 104.

orders, decrees, acts, executions, distresses, imprisonments, penalties, forfeitures, and proceedings had been made, done, suffered, incurred, 5 & 6 W. 4, recovered, or executed after the said thirtieth day of September one thousand eight hundred and thirty-five in pursuance and under the authority of this act.

No. III.

IV. That two aldermen of the city of London, together with not less Appointment than twenty inhabitant householders of the respective wards or districts of commisherein-after mentioned, including the common councilmen for the time sioners. being of the said respective wards or districts, shall, in such manner as hath been heretofore accustomed, be nominated and appointed to be commissioners of the court of requests in and for the city of London for the recovery of small debts in the said city and the liberties thereof, and to sit as usual in the said court for one calendar month in the rotation

following; (that is to say,)

In the Year	For the Month of	Of the Ward of	Rotation.
1835	October	Aldgate and Lime Street.	
1000	November	Bishopsgate Within and Without	
	December	Broad Street.	
1836	_	Billingsgate,	
1030	January Kohmann	Cornhill.	
	February March		
	March	Aldersgate Within and Without.	
	April	Queenhithe.	
	May	Castle Baynard.	
	June	Farringdon Without.	
	July	Portsoken.	
	August	Vintry.	
	September	Langbourn.	
	October	Cheap.	
	November	Bread Street.	
	December	Candlewick.	
1837	January	Dowgate.	
	February	Bridge.	
	March	Walbrook.	
	April	Bassishaw.	
	May	Cordwainer.	
	June	Coleman Street.	
	July	Farringdon Within.	
	August	Cripplegate Within and Without.	
	September	Tower.	

And such commissioners shall from time to time hereafter continue to be nominated and appointed from each and every of the said wards or districts in the same rotation for one calendar month in every succeeding two years; and the said commissioners are hereby empowered and required to meet and to hold the said court in the room in Guildhall Buildings now used for the purposes of the said court, or in the Guildhall of the said city, or any convenient room or rooms within the city of London to be appointed for that purpose from time to time by the mayor, aldermen, and commons of the said city, in common council assembled; and the said court shall be holden at such time or times and on such day or days as the said mayor, aldermen, and commons, in common council assembled, shall from time to time direct; and the said commissioners or the major part of them who shall be present, such number present not being less than three, at their meetings to be holden as aforesaid, are hereby authorized and empowered to determine all such actions and causes as are herein-after mentioned, and to give such judgments, and make such orders and decrees therein, and to award execution thereupon, with the costs (such costs to be in the discretion of the said court as to the party by or to whom the same shall either wholly or in part be paid), against the goods and chattels or against the body or bodies of all and every the person and persons against whom they shall No. III.

c. 94.

Number of commissioners to be present.

In default of a sioners attending, the assistance of other commissioners not in rotation to be called for.

In case sufficient number of commissioners do not attend, court may be adjourned.

Qualification of

Acts of combefore conviction.

Commissioners lowing oath.

give any such judgment, or make any order or decree, as to them shall 5 & 6 W. 4, seem just in law or equity.

> V. Provided always, That on the decision of each and every action, cause, or question for the recovery of any sum not exceeding forty shillings three at least of the said commissioners shall be present in court; and on the decision of each and every action, cause, or question for the recovery of any sum exceeding forty shillings, and not exceeding five pounds, five at least of the said commissioners shall be present in court; and on the decision of each and every action, cause, or question for the recovery of any sum exceeding five pounds, seven at least of the said

commissioners shall be present in court.

VI. That if at any meeting of the said commissioners a sufficient sufficient num- number of them shall not be present it shall be lawful for such commisber of commis-sioners or commissioner as shall be then in attendance, or if there be no such commissioner, then for the clerk of the said court for the time being, or his assistants, to call for and use his and their best endeavours to obtain the assistance of any other commissioner or commissioners who is, are, or shall be duly qualified and authorized to act in the said court for any other month; and in every such case it shall be lawful for such assistant commissioner or commissioners to act in the execution of the powers and authorities given by this act in the same manner as if such commissioner or commissioners had been appointed for the then current month.

VII. That in case a sufficient number of the said commissioners shall not be present to act in the execution of this act, as is herein directed, on any of the days appointed or to be appointed for holding the said court, then and in every such case it shall be lawful for any of the said commissioners who shall be present, and if no commissioner be present it shall be lawful for the said clerk or his assistants for the time being, to adjourn the said court to the next day of meeting, or to some earlier

VIII. That no person shall be qualified to act as a commissioner in the commissioners. execution of this act (except the said mayor, aldermen, and common

council,) unless he shall at the time of acting be a householder within the jurisdiction of the said court, and possessed of property, real or personal, of the value of one thousand pounds above all charges and incumbrances whatsoever; and if any person (except as aforesaid), not being qualified as aforesaid, shall act as a commissioner in the execution of this act, or not having taken the oath herein-after mentioned, or if any commissioner shall act in any action, question, or matter in which he shall be in any manner concerned or interested, every such person shall for every such offence forfeit and pay the sum of fifty pounds, together with full costs of suit, to any person or persons who shall sue for the same, to be recovered in any of his Majesty's courts of record at Westminster by action of debt or on the case, or by bill, plaint, or information, wherein no essoign or protection shall be allowed; and in every such action, bill, plaint, or information the proof of such qualification shall lie on the defendant, and it shall be sufficient for the plaintiff or prosecutor to proof that the person so sued or prosecuted had acted as a commissioner in the execution of this act: Provided nevermissioners good theless, that all judgments, orders, decrees, acts, and proceedings of all and every person and persons acting as a commissioner or commissioners in execution of this act, though not duly qualified as aforesaid, previously to his or their being convicted of such offence, shall, notwithstanding such offence, be as valid and effectual as if such person or persons had been duly qualified according to the directions of this act.

IX. That no person shall be capable of acting as a commissioner in to take the fol- the execution of any of the powers and authorities given by this act after the thirtieth day of September one thousand eight hundred and thirtyfive (except the power hereby given of administering oaths to commissioners) until he shall have taken an oath to the following effect; (that is to say,)

' \ \ A. B. do swear, That I am possessed, for my own use and benefit, of estates or property of the clear amount or value of one thousand 5 & 6 W.4, ' pounds above all incumbrances, and that I will faithfully, impartially, 'and honestly, according to the best of my skill and knowledge, execute the several powers and trusts reposed in me as a commissioner of the court of requests in and for the city of London, conformably to the directions and true intent and meaning of an act passed in the

year of the reign of king William the fourth, inti-' tuled An Act [here insert the Title of this Act], and that without favour ' or affection, prejudice or malice. So help me GOD.'

Which oath shall and may be administered to the said commissioners respectively by the clerk of the said court, or his assistants, before one or more of the said commissioners; and they the said commissioners shall and are hereby required (after taking the said oath) to sign or subscribe their respective names upon a roll or rolls of parchment to be provided for that purpose, with the said oath written or printed thereon; and such roll or rolls shall be carefully kept among the proceedings of the said court.

X. That no commissioner of the said court shall be capable of acting Commissioners as a commissioner on the hearing or determining of any action, cause, not to act when question, or matter in which he shall be a party, or in anywise concerned interested. or interested, or in making any order, decree, or judgment thereon.

XI. That no commissioner of the said court shall directly or indirectly No commisbe concerned or interested in the supplying of any articles for the use sioner to be of the said court, or in any repairs, improvements, fittings, or furni-concerned in ture of the same, or in any contract or contracts for the supplying any the supply of such articles or performing such works respectively; and that every any articles for such person shall for every such offence forfeit and pay the sum of one the such person shall for every such offence forfeit and pay the sum of one the such person shall for every such offence forfeit and pay the sum of one the such person shall for every such offence forfeit and pay the sum of one the such person shall for every such offence forfeit and pay the sum of one the such person shall for every such offence forfeit and pay the sum of one the sum of one the sum of the sum o hundred pounds to any person or persons who shall sue for the same, to be recovered in any of his Majesty's courts of record at Westminster by action of debt or on the case, or by bill, suit, or information, wherein no essoin or protection shall be allowed.

XII. That the said commissioners shall and they are hereby required Commissioners to make or cause to be made regular entries in a book or books to be to enter their provided by them for that purpose of all judgments, acts, orders, direc-proceedings in tions, regulations, and proceedings of them the said commissioners rela- a book. tive to the execution of the several powers and authorities vested in them by this act, in the same manner as such entries have heretofore been made; and such book and books shall be allowed to be read in evidence in proof of the proceedings of the said court in every court whatsoever.

XIII. That the present clerk, assistant clerks, and other officers of Present officers the said court nominated or appointed before the passing of this act, to continue unshall hold and enjoy their several and respective offices and employments til removed. until he or they shall be removed therefrom respectively; and such clerk, assistant clerks, and other officers and servants shall be subject to the like pains and penalties and power of removal, and to the like rules and regulations, as if he and they had been nominated and appointed by virtue of this act.

XIV. That it shall be lawful for the said mayor, aldermen, and com- Power to remons, in common council assembled, from time to time at their discre- move clerks, tion to remove or suspend the present or any future clerks, assistants, &c. or other inferior officers of the said court, or any of them, for misbehaviour in their respective offices, or any other cause.

XV. That if it shall at any time appear necessary to the said mayor, Power to apaldermen, and commons, in common council assembled, from the in-point additional crease of the business of the said court, or for any other reason which clerks, &c. they may think sufficient, that more assistants to the clerk of the said court are wanting, it shall be lawful for the said mayor, aldermen, and commons, in common council assembled, from time to time to appoint any such additional assistants or other inferior officers who may appear to them to be necessary for better carrying into execution the purposes

No. III. c. 94.

No. III. 5 & 6 W. 4 c. 94.

Power to remove beadles or serjeants.

Appointment of new clerks in case of death, ac.

Appointment of new beadles or serjeants in case of death, &c.

Clerk's duties.

Duty of officers.

What debts sioners.

Certain debts to which this act is not to extend.

Statute of limitations may be pleaded.

of this act, and also from time to time to reduce the number of such assistants or other inferior officers according to the discretion of the said mayor, aldermen, and commons, in common council assembled.

XVI. That it shall be lawful for the court of mayor and aldermen of the said city of London from time to time at their discretion to remove or suspend the present or any future beadles or serjeants, or any of them, for misbehaviour in their respective offices, or any other cause.

XVII. That it shall be lawful for the said mayor, aldermen, and commons in common council assembled, upon the death, removal, or resignation of any clerk, assistant, or other inferior officer of the said court of requests, from time to time, when and so often as such death, resignation, or removal shall happen, to elect another person or persons in the room or stead of every such clerk, assistant, or other inferior officer so dying or resigning or removed as aforesaid.

XVIII. That it shall be lawful for the said court of mayor and aldermen, upon the death, removal, or resignation of any beadle or serjeant of the said court of requests, from time to time, when and so often as such death, resignation, or removal shall happen, to elect another person or persons in the room or stead of every such beadle or serjeant so dying or resigning or removed as aforesaid.

XIX. That the clerk of the said court and his assistants, and every or any of them, are and is hereby empowered and required to issue all summonses, warrants, precepts, and executions, and to register all orders, decrees, and judgments of the said court, and to do all such acts, matters, and things as are directed or required to be done by the said clerks by virtue of this act.

XX. That the beadles, serjeants, or officers of the said court shall serve all summonses, and execute such orders, warrants, precepts, and executions, and do and perform all such other acts, matters, and things, as may be required to be done by them respectively by virtue of this act.

XXI. That it shall be lawful for the said commissioners and they are shall be decided hereby empowered and enabled to decide and determine all disputes and by the commis- differences between party and party for any sum of money not exceeding ten pounds in all actions or causes of debt, except as hereinafter is men-

tioned. XXII. Provided always, That nothing in this act contained shall extend or be construed to extend so as to enable the said court to determine the right or title to any lands, tenements, or hereditaments, or real estates whatsoever, or to judge, determine, or decide on any debt where the title of the freehold or lease for years, not being a lease by parol, of any lands, tenements, or hereditaments, or of any chattels real whatsoever, shall be brought or come in question; or to judge, determine, or decide on any debt which shall arise by reason of the occupation of lands, tenements, or hereditaments situate elsewhere than within the jurisdiction of the said court, or for any sum being the balance of any account originally exceeding ten pounds, nor to any other debt which shall arise by reason of any cause concerning testament or matrimony, or any thing concerning or properly belonging to the ecclesiastical court, or for or concerning any agreement by way of composition by or by way of retainer of tithes, or for or by reason of any bye law, or to any debt for tolls or customs due to any corporation or company, or in anywise relating to the franchises, privileges, or chartered rights of the mayor and commonalty and citizens of the city of London, or other bodies politic or corporate, or any premium or any policy of insurance.

XXIII. And for removing all doubts whether the statute of limitations may be pleaded in the said court of requests, be it further enacted and declared, That all defendants in the said court shall be allowed to plead or claim any statute of limitations now in force or hereafter to be made; and every defendant so pleading or claiming shall have and receive such and the like advantage and relief thereby as such defendant would have been entitled to in case this act had not been made, and he, she, or they had been sued for the same debt or other cause of action

in any of his Majesty's courts at Westminster, or any other court, and No. III. had there pleaded such statute in bar to the action or suit.

XXIV. That in every case where a debt not exceeding ten pounds shall be contracted for necessaries by any person under the age of twenty-one years, and residing or inhabiting or employed as clerk, offi- Power to sue cer, book-keeper, journeyman, shopman, or labourer, or otherwise infants in the seeking or obtaining a livelihood within the city of London or the liber- court of reties thereof, and such debt would be recoverable against such person by quests for debts an action for the same in any of his Majesty's courts at Westminster, it contracted for shall be lawful for the person or persons to whom such debt shall be due necessaries. to sue for and recover such debt in the said court of requests, in the same manner as if the person by whom the debt shall be contracted were of full age; and that in every case where any wages or other debt or debts not exceeding the sum of ten pounds shall be due to any menial servant or other person under the age of twenty-one years, it shall be lawful for such servant or other person to sue for and recover such debt or debts in the said court of requests, in the same manner as if he or she were of full age; and the said commissioners are hereby fully authorized and required in such case to take cognizance of and proceed concerning such debt in the same manner, and shall have such and the same powers in regard thereto, as if the plaintiff and defendant were of full age.

5 & 6 W. 4, c. 94.

XXV. Provided always, That nothing herein contained shall extend This act not to or be construed to extend to prevent or restrain any person or persons prevent any from making distress or bringing any action or actions whatsoever for distress or acrent, and thereby recovering such rent with costs, although the same tion for rent.

rent shall not amount to the sum of ten pounds.

XXVI. Provided always, That nothing herein contained shall extend For preventing or be construed to extend so as to enable any plaintiff to split or divide the splitting or any cause of action for recovery of any debt or demand where the whole dividing of sum or value that shall appear to be due and owing shall amount to debts. more than ten pounds, in order that the same may be made the ground of two or more actions, causes, or matters in controversy, for the purpose of bringing such actions, causes, or matters within the jurisdiction of the said court of requests; and in case it shall appear to the said commissioners that any plaintiff shall have so split or divided his or her cause of action, debt, or demand as aforesaid, except to bring it within the power herein-after contained, then and in every such case the said commissioners shall and they are hereby required to dismiss, with costs, every such action, cause, or matter so split or divided; but such dismissal shall not hinder or prevent such plaintiff from proceeding for the recovery of his or her debt in any of his Majesty's courts of record at Westminster, or in such other manner as he or she might have lawfully proceeded if this act had not been made

XXVII. Provided also, That in case any plaintiff who shall have so For empowersplit or divided such his or her cause of action, debt, or demand as ing plaintiffs to aforesaid, or to whom the whole sum that shall appear to be due shall reduce their deexceed the sum of ten pounds, shall declare to the commissioners that mand to 101. he or she is willing to accept such sum of money as the said court is in provided they and by this act enabled to adjudge and order to be paid in full of the in full for their whole of such debt or demand in such action or cause, then and in respective every such case the said commissioners shall and may, on such plaintiff debts. adducing proof respecting his or her debt or demand to the satisfaction of the said commissioners, adjudge, decree, and order such sum to the plaintiff, not amounting to ten pounds, as to the said commissioners shall seem just and reasonable; and such sum shall, in the order, judgment, or decree to be given by the said commissioners, be declared to be and shall be in full discharge of all demands from the defendant to the plaintiff in such action, cause, or matter in controversy, and the plaintiff shall be precluded from afterwards proceeding in any other court for or on account of such debt.

XXVIII. That from and after the said thirtieth day of September one Debtors within

jurisdiction

No. I. c. 22.

spective hundreds, parishes, townships, liberties, districts, or places 3 & 4 W. 4, within the jurisdiction of the said respective courts, shall and they are hereby authorized and required to obey and execute all and every the orders, warrants, precepts, or other process which may be to them directed by the said commissioners; which said commissioners respectively are hereby authorized to direct such their orders, warrants, precepts, or other process to such chief or petty constables, headboroughs, tithing-Fines, &c. may men, and other peace officers accordingly.

be levied by warrant of commissioners of sewers.

LIII. That no fine, amerciament, penalty, or forfeiture which from and after the passing of this act shall be set or imposed by any commissioners of sewers upon any person, body politic or corporate, for not cleansing, scouring, repairing, or maintaining, or for obstructing or injuring, any of the walls, ditches, banks, gutters, sewers, gotes, bridges, and streams, or for any other cause, matter, or thing, within the jurisdiction of the said commissioners respectively, shall hereafter be returned or estreated into the court of exchequer; but that the same fines, amerciaments, penalties, and forfeitures, and all penalties and forfeitures imposed by this act, except as herein otherwise provided, shall and may be demanded and received by the treasurer, clerk, expenditor, or other person appointed by the said commissioners to receive the same, and it not paid upon demand shall and may be levied by distress and sale of the goods and chattels of the person, body politic or corporate, upon whom such fines, amerciaments, penalties, or forfeitures shall or may be so set or imposed, by warrant under the hands and seals of the said commissioners, or any six or more of them, together with the costs and charges of such distress and sale, rendering the overplus (if any) to the party or parties entitled thereto; which warrant the said commissioners are hereby authorized to issue; and the said fines, amerciaments, penalties, and forfeitures, when so received or levied, shall and may be applied by the said commissioners to such and the same uses and purposes as the monies raised, levied, or set apart by the said commissioners for defraying and reimbursing the general expences of executing the commission of sewers under which they shall or may act or may be applicable.

Form of warfines, &c.

LIV. That the warrant authorizing the levying of any such fine, rant for levying amerciament, penalty, or forfeiture payable by virtue of this act may be in the words or to the effect following:

' To our bailiff of sewers.

'our collectors, and to each and every of them, and to all con-* stables and other peace officers.

and

in the county of

WHEREAS at the court [or session] of sewers holden for the limits [here state the name of the commission] on the last, A. B. of

carpenter, was fined [amerced, or otherwise, as the case may be in the sum of which sum it hath ' this day been proved to us, the undersigned, being six or more of the

justices and commissioners of sewers for the aforesaid limits, by the duly appointed to receive the ' same fine [amerciament, penalty, or forfeiture, as the case may be] that

the said hath neglected or omitted

'to pay when demanded of him: These are therefore to authorize and

command you, any or either of you, to levy the said sum of

by distress and sale of the goods and chattels of the said together with the costs and 'charges of such distress and sale, rendering the overplus, if any, to

' the said Given under our hands and ' seals the day of in the year

' of our Lord one thousand eight hundred and

and to

LV. That in all and singular the orders, decrees, or other proceedings Commissioners may decree and hereafter to be made touching or concerning any matter or thing within assess costs;

decree therein, or for any other purpose requisite to the execution of this act.

No. 111. 5 & 6 W. 4,

XXIX. That no evidence shall be permitted to be given by the plaintiff on the trial of any such action or cause as aforesaid of any demand or cause of action except such as is stated in the said summons hereby Restricting evidirected to be given; nor shall any evidence be admitted on the behalf dence on trial of the defendant or defendants on the trial of such action or cause of of causes and any demand he, she, or they may have on the plaintiff or plaintiffs in the actions. nature of a set-off, to lessen or discharge himself, herself, or themselves from the said action or cause, unless notice thereof in writing shall have been given to such plaintiff or plaintiffs by personal service, or by leaving the same at his, her, or their dwelling-house, warehouse, wharf, quay, lodging, place of abode, shop, shed, stall, stand, or other place of dealing, trading, or working, previous to the day whereon such matter or cause shall be heard or tried.

XXX. Provided always, That no orders, decrees, judgments, or pro- No action receedings made by the said commissioners in pursuance of this act shall movable by be removed or removable into any other court by certiorari, or otherwise certiorari. howsoever.

XXXI. That where any debt shall be due, owing, or demanded from How persons any two or more persons jointly, by reason or on account of such per- may be sumsons being partners in trade, the like service of any such summons as moned from aforesaid on or for any one of such two or more partners or persons whom debt shall be as good and sufficient in law as if each of them were separately shall be jointly due. summoned as aforesaid.

XXXII. That no privilege shall be allowed to exempt any person from Attornies not the jurisdiction of the said court of requests on account of his being an exempt from attorney or solicitor or any other officer of any court of law or equity the jurisdiction at Westminster, or of any other court whatsoever; but that all attornies, of the court. solicitors, and officers shall be subject to the several processes, orders, judgments, and executions of the said court of requests, in the same manner as any other persons are subject to the same by this act or otherwise.

XXXIII. That it shall be lawful for any plaintiff or plaintiffs, defen- For compelling dant or defendants in any action, cause, or question hereafter depend- the attendance ing in the said court of requests, to serve or cause to be served any per- of witnesses. son or persons residing within the jurisdiction of the said court, or within five miles from the Guildhall of the said city of London, with a summons to be issued by the clerk of the said court or his assistants, either personally or by leaving the same at the last or most usual place or respective places of abode of such person or persons, to appear as a witness or witnesses to give evidence in the said court in or concerning any such action, cause, or question; and in case any person residing or being within the jurisdiction of the said court, after being duly served as aforesaid with such summons, shall refuse or neglect to appear pursuant to such summons, due proof being made of the service of such summons, and no sufficient cause for his or her absence or non-appearance being shown to the satisfaction of the said court, or if such person or persons so summoned and appearing shall refuse to be examined upon oath and to give evidence as aforesaid before such commissioners, according to the true intent and meaning of this act, then and in any of the said cases every such person so neglecting or refusing shall forfeit and pay for every such offence not exceeding the sum of forty shillings, to be awarded by the said commissioners; and if any person so offending shall not forthwith pay into the said court the penalty or forfeiture so imposed upon him, her, or them, it shall be lawful for the said commissioners to order and cause such person or persons to be apprehended by any of the beadles, serjeants, or officers of the said court, and committed to any prison in the said city, there to remain for any space of time not exceeding one calendar month, unless such penalty or forfeiture shall be sooner paid; and every such penalty or forfeiture as last mentioned which shall be received

No. III. c. 94.

by virtue of this act shall thereupon (after deducting the reasonable costs 5 & 6 W 4, and charges of apprehending and taking such person or persons so refusing or neglecting) be paid over into the hands of the churchwardens or overseers of the poor of the parish wherein the person or persons respectively paying the same shall, at the time of his, her, or their neglect or refusal to appear or give evidence as aforesaid, inhabit, dwell, or seek a livelihood, and shall be applied towards the support and maintenance of the poor of the said parish.

For adjourning the determination of any cause to a future day.

XXXIV. That in case and when and so often as for the want of the attendance of any witness or witnesses, or for want of any deeds, instruments, writings, or other documents, or written, printed, or other evidence, or on account of illness or absence of any parties or otherwise, the said commissioners shall be unable to examine and determine to their full satisfaction any particular action, cause, or matter in controversy coming before them in the said court, then and in every such case it shall be lawful for the said commissioners to adjourn or postpone such cause or matter in controversy from time to time as they shall think proper and direct: Provided always, That at the time of such adjournment or postponement a day shall be fixed for the further hearing of such action, cause, or matter.

For punishing persons guilty of perjury.

XXXV. That in case any person or persons shall make oath or give evidence in any action, cause, or question depending in the said court of requests, whereby he, she, or they shall commit wilful and corrupt perjury, and thereof be duly convicted according to law, then every such person or persons shall incur and suffer the like pains and penalties as any other person or persons convicted of wilful and corrupt perjury

according to the laws and statutes of this realm.

If any debtor when summoned comproceed.

XXXVI. That if any debtor or debtors who shall have been duly does not appear summoned as aforesaid shall not appear, either in person, or by his, her, or their agent, or some other person on his, her, or their behalf, before the said court at the time and place mentioned in the said summons, missioners may then and in every such case it shall be lawful for the said commissioners assembled in the said court, after proof made upon oath of the service of the said summons, to hear the action or cause on the part of the plaintiff or plaintiffs only, and to make such order, attachment, decree, or judgment therein as to them shall seem just and equitable, and to appoint some certain time and place, according to their discretion, for such debtor or debtors to show cause before the said commissioners against such order, decree, or judgment so pronounced ex parte as aforesaid, at which time and place, or any subsequent court or courts, it shall be lawful for the said commissioners, whether such debtor or debtors shall then appear and show cause or not, upon proof upon oath made that a copy of such order, decree, or judgment had been given to such debtor or debtors, or left with his, her, or their servant or other person belonging to him, her, or them, or the master or mistress of the house at the dwelling-house, wharf, quay, lodging, place of abode, warehouse, accounting-house, chambers, office, shop, shed, stall, stand, or other place of dealing, trading, or working, or resorting of such debtor or debtors, being within the jurisdiction of the said court, to make and pronounce such final order, judgment, or decree therein, and to award such reasonable costs of suit as to them shall seem most agreeable to equity and good conscience.

Clerk not to issue summons until deposit is made.

XXXVII. That no clerk of the said court shall issue any summons for any debt exceeding twenty shillings unless the plaintiff shall, at the time of issuing out such summons, deposit with the clerk or clerks of the said court for every debt exceeding twenty shillings and not exceeding forty shillings the sum of two shillings, and for every debt exceeding forty shillings and not exceeding sixty shillings the sum of five shillings, and for every debt exceeding sixty shillings and not exceeding one hundred shillings the sum of seven shillings and sixpence, and for every debt exceeding one hundred shillings the sum of ten shillings; and if upon the day of the return of any such summons, or at any continuation

No. III.

c. 94.

or adjournment of the said court, or of the action or cause for or on sccount of which the said summons shall have been issued, the plaintiff 5 & 6 W. 4, or plaintiffs shall not appear, either in person, or by his, her, or their agent, or some other person on his, her, or their behalf, or appearing shall not make proof of his, her, or their demand to the satisfaction of the said court, but shall become nonsuited, or judgment shall be pronounced against him, her, or them by the said court, then and in every such case it shall be lawful for the said commissioners present in court, or any three of them, and they are hereby required, to award to the defendant or defendants a part or the whole of such deposit money by way of costs and satisfaction for his, her, or their trouble and attendance, together with such further sum as they the said commissioners in their discretion shall think fit, and to order and compel the plaintiff or plaintiffs to pay such further sum by such ways and means as any debt or debts ordered or decreed by the said court can or may be recovered; and if there shall be any overplus remaining in the hands of the said clerk after the sum or sums awarded to the defendant or defendants shall have been paid, or if the plaintiff or plaintiffs shall, on the return day of any such summons, appear and make proof of his, her, or their demands to the satisfaction of the said court, or that the debt has been settled or paid, then and in every such case such overplus or sum or sums of money so deposited with the said clerk as aforesaid shall be by the said clerk returned and repaid into the hands of such plaintiff or plaintiffs accordingly: Provided also, that in case such plaintiff or plaintiffs at the time of such judgment of the said commissioners, or at any time afterwards, or his, her, or their goods and chattels, shall be out of the jurisdiction of the said court, then it shall be lawful for any beadle, serjeant, or other officer of the said court to apply to any justice of the peace acting for the said city of London, and upon proof being made upon oath (which oath such justice is hereby authorized and required to administer) of the precept of execution having issued against such person or persons, or effects, as the case may be, such justice of the peace is hereby authorized and required to sign and indorse the said precept of execution, and thereupon the said beadle, serjeant, or other officer shall have the like powers and authorities to execute the said precept as are herein-after provided in case any defendant or defendants, or his, her, or their goods and chattels, shall, after final judgment given in the said court, be removed out of the jurisdiction thereof.

XXXVIII. That in case it shall at any time during the hearing of Commissioners any action or cause in the said court appear by the oath of any person may suspend or persons to the satisfaction of the major part of the commissioners proceedings in present at the court at which such action or cause shall be heard, that cases where such debtor or debtors is or are unable from sickness or unavoidable debtors are accident to pay and discharge the debt or debts for which he, she, or ill or unable to they shall have been so summoned, then it shall be lawful for the major pay the debt. part of the said commissioners assembled at any such court or courts as aforesaid to suspend or supersede the proceedings in such action or cause until it shall, upon like proof as aforesaid, appear to the court that such debtor or debtors shall be able to pay such debt or debts, and then to proceed again in manner aforesaid; any thing herein contained

to the contrary notwithstanding.

XXXIX. That in any action, cause, or question in which the commis- Commissioners sioners of the said court shall have made an order or decree for the pay- may award exement of money it shall be lawful for the said commissioners present in cution against court immediately, or in case of default or failure of payment thereof at their goods. the times and in the manner thereby directed, to award execution against the goods and chattels of the party against whom such order or decree shall be made, and thereupon it shall be lawful for the clerk of the said court or his assistants, at the request of the party prosecuting such order or decree for the payment of money, to issue an execution under his hand to one of the beadles, serjeants, or officers of the said court, who by virtue of such precept, issued upon execution awarded against the

No. III. c. 94.

For regulating the sale of goods taken in execution.

goods and chattels of such party, shall and may and is hereby em-5 & 6 W. 4, powered to levy, by distress and sale of the goods and chattels of such party being within the jurisdiction of the said court, such sum and sums of money and costs as shall be so ordered, decreed, or adjudged.

XL. Provided always, That no sale of any goods which shall be taken under or by virtue of any precept or execution to be issued in manner aforesaid shall take place or be made until after the expiration of eight days at least next following the day on which such goods shall have been so taken; and in the meantime and until any such sale shall be made the goods taken by virtue of any precept as aforesaid shall be deposited by the beadle, serjeant, or other officer taking or levying the same in some fit and convenient place or places to be appointed by the said mayor, aldermen, and commons, in common council assembled: Provided also, That it shall be lawful for the said mayor, aldermen, and commons, in common council assembled, from time to time, and when and as often as they shall think proper, to nominate and appoint such and so many sworn brokers and appraisers for the purpose of selling or valuing any goods, chattels, or effects taken in execution under or by virtue of this act as shall appear to the said mayor, aldermen, and commons, in common council assembled, to be necessary or proper.

XLI. Provided always, That the costs and charges levied for the distress shall not exceed the costs and charges specified in an act passed in the fifty-seventh year of the reign of king George the third, intituled An Act to regulate the Costs of Distresses levied for Payment of

small Rents.

Costs of distress, 57 G. 3, c. 93.

Execution against the body may issue aster an execution against the goods.

XLII. That if the said beadle, serieant, or officer to whom such precept shall have been issued shall certify and make a return thereon in writing under his hand, that the said party or parties against the goods of whom execution shall have been awarded hath or have no goods or chattels, or not sufficient goods or chattels whereon or whereby such levy can be made, then and in every such case it shall be lawful for the said commissioners to award execution against the body or bodies of the party or parties against whom such order or decree shall be made for the whole or so much of such sum or sums of money and costs so ordered, decreed, or adjudged as shall then remain unsatisfied; and thereupon it shall be lawful for the proper officer or officers of the said court, at the prayer of the party prosecuting such order or decree for the payment of money, to issue a precept under his hand to one of the beadles, serjeants, or officers of the said court, who shall and may and is hereby empowered to take such party or parties, who shall remain in custody until he, she, or they shall perform and obey such order, decree, or judgment, for the space of time herein in that behalf particularly directed.

In case parties shall secrete their goods or abscond.

XLIII. That if the party against whose goods or body any such execution shall be awarded, and process thereupon shall issue, shall, by secreting or removing his or her goods or chattels, or by absconding, or by any other means, prevent or evade the service or effect of any such execution, it shall be lawful for the said commissioners present in the said court, upon due proof thereof made before them by the oath or oaths of one or more credible witness or witnesses, at their discretion to award further execution either against the body or goods and chattels of such party, and process shall issue thereupon, and be served by one of the beadles, serjeants, or officers of the said court in manner aforesaid, until the plaintiff or plaintiffs shall be fully paid and satisfied; and it shall be lawful for the said commissioners from time to time, in case they shall think fit, for the ease and convenience of the defendant or defendants, and they are hereby authorized and empowered to order, decree, or adjudge any debt due to the plaintiff or plaintiffs to be paid by several payments or instalments, and under such terms and conditions as may appear reasonable and just to them the said commissioners, for the ease of the defendant or defendants, and the security of the plaintiff or plain. tiffs; and it shall be lawful for the said commissioners present in court, in case any default or failure of any such payments or instalments so

ordered, decreed, adjudged, and directed shall afterwards be made, and they are hereby authorized and empowered, at the instance of the plain- 5 & 6 W. 4, tiff or plaintiffs, and upon due proof of the said default or failure, to award execution against the said defendant or defendants, or against any other person or persons within the jurisdiction of this act who may have given security to the said plaintiff or plaintiffs, under directions of the said commissioners, for the payment of such payments or instalments in manner aforesaid, for the whole debt or such part thereof as shall then remain unpaid, together with such further costs as to them shall seem just and reasonable; and such debt or such part thereof and such further costs shall be recovered by the same ways and means as are herein provided for the recovery of the debt and costs first decreed.

XLIV. That it shall not be lawful for the said commissioners to issue Piocess not to any process against the body or bodies of any person or persons in any issue against action, cause, or question where the party entitled to the benefit of any the body and order, judgment, or decree shall at the same time have obtained any goods and chatwarrant or process against the goods and chattels of the same person or tels of the same persons, unless there shall be a return of no goods to such warrant, or person at the unless the goods sold under the execution shall not be sufficient to de-same time. fray the sum and sums of money and costs so ordered, decreed, and adjudged, in either of which cases any process against the body or bodies of any such person or persons shall be issued only for the de-

ficiency.

XLV. That in all cases where a final decree or judgment for any sum If defendants or sums of money shall have been obtained in the said court it shall be remove out of lawful for any beadle, serjeant, or officer of the said court to apply to the jurisdiction any justice of the peace acting for the division or place to which such of the court to defendant or defendants, or his, her, or their goods and chattels, shall avoid execube removed; and upon proof being made upon oath (which oath such tion, a justice of justice is hereby authorized and required to administer) of the precept the peace may of execution having issued against the person or persons or effects, as the case may be, of the defendant or defendants, and that the person or persons, goods and chattels of such defendant or defendants, is or are not to be found within the jurisdiction of the said court, but is or are believed to be within the county or district where such justice of the peace shall act, such justice of the peace is hereby authorized and required to sign or indorse his name upon the back of the said precept of execution, and thereupon the beadle, serjeant, or other officer of the said court shall be and is hereby authorized and empowered to take and seize the person and persons or effects of the defendant or defendants, wheresoever the same shall be found, within the county or district for which such justice of the peace who shall have so signed or indorsed the said precept of execution as aforesaid shall act, and to deal therewith in like manner as if the same had been taken or seized within the jurisdiction of the said court; and all constables and other peace officers shall and they are hereby required to be aiding and assisting within their respective districts in the execution of the said precept so indorsed as aforesaid.

XLVI. That in or upon each and every precept to be issued upon Clerk to insert execution awarded against the goods and chattels or body of any person or indorse debt or persons whomsoever, the clerk of the said court or his assistants and costs on shall insert or indorse the sum or sums of money and the costs so precepts, and ordered, decreed, and adjudged; and if the party or parties against if paid to the whom such execution shall be awarded respectively shall, before an actual sale of the goods and chattels, or before he, she, or they is or are execution to be apprehended, or before the expiration of the term of his, her, or their superseded. imprisonment, as herein mentioned, pay or cause to be paid or tendered unto the clerk of the said court or his assistants, or to the officer holding the execution, or, in case such party or parties shall be in prison, to the gaoler of the prison, such sum or sums of money as aforesaid, or such part thereof as the plaintiff or plaintiffs shall agree to accept in full for his, her, or their debt or debts, together with the costs, then and in every such case the execution shall be superseded, and the body or

No. III. c. 94.

indorse the pre-

clerk of court before sale,

No. III. 5 & 6 W.4, c. 94.

Limitation of prisonment of debtors.

If any debtor or goods, the time of his imprisonment shall be extended.

To be imprisoned the limited time for the first execution, and afterwards half the limited time.

Fees to be taken.

goods and chattels of the said party or parties shall be discharged and set at liberty, and the officer holding the execution, or the gaoler, (as the case may be,) shall immediately transmit such sum or sums of money to the clerk of the said court.

XLVII. That no person or persons whomsoever, being a debtor or the times of im-debtors, defendant or defendants, who shall be committed to gaol or prison by order of the said court of requests, shall be kept or continued in custody on any pretence whatsoever (except in the cases herein-after otherwise provided for) for any longer space or spaces of time, from the time of his, her, or their commitment to prison, than is or are hereinafter limited; that is to say, where the debt, exclusive of costs, shall amount to twenty shillings and no more, then he, she, or they shall be kept or continued in custody eight days, and where the debt, exclusive of costs, shall be more than the sum of twenty shillings, he, she, or they shall be kept or continued in custody as many days as shall be equal to the number of sums of two shillings and sixpence in the amount of such debt, unless the plaintiff or plaintiffs shall be sooner satisfied, and signify the same in writing under his, her, or their hand or hands to the officer who shall have executed the process, which officer, upon producing the same to the gaoler, shall thereupon forthwith discharge such debtor or debtors out of custody.

XLVIII. And in order the more effectually to prevent persons sumconceal money moned for debts or demands to the said court from fraudulently concealing their money, goods, or effects; be it further enacted, That in case, upon the summons of any person for any debt or demand before the said court, information of such fraudulent concealment shall be given, such court shall have power to hear evidence as to the fact; and in case it shall be proved to their satisfaction upon the oath of one or more witness or witnesses, then and in every such case it shall be lawful for the said court to extend the aforesaid time of imprisonment of such debtor to any period in addition thereto not exceeding three calendar months.

XLIX. Provided always nevertheless, That all and every person and persons who shall be taken in execution under or by virtue of any process issuing from or out of the said court, and who at the time of being taken into custody, or during his, her, or their imprisonment, shall have more than one execution against him, her, or them in the said court, shall be imprisoned the limited time for the first execution, and afterwards half the limited time only for and in respect of each other execution; (that is to say,) after the limited time is expired on the first execution the imprisonment shall commence on the second execution, and continue half the limited time only, and after half the limited time is expired on the second execution the imprisonment shall commence on the third execution, and so on until he, she, or they shall have been imprisoned the limited time for the first execution, and afterwards half the limited time only for and in respect of each other separate execution to be issued against him, her, or them in the said court previously to his, her, or their being taken into custody, or during his, her, or their imprisonment; any law, statute, or usage to the contrary notwithstanding.

L. That such fees shall be taken by the said clerks, beadles, serjeants, and other officers of the said court, for their several and respective services in the execution of this act, as shall from time to time be appointed and fixed for that purpose by the mayor, aldermen, and commons of the said city of London, in common council assembled, in like manner as the fees of the officers of the said court of requests have heretofore been regulated and fixed by them; and the said mayor, aldermen, and commons, in common council assembled, shall and they are hereby required to cause a table of such fees as for the time being shall be appointed to be taken as aforesaid to be affixed in some conspicuous place of the court or place of meeting of the said commissioners, in order that all persons concerned may be enabled to peruse the same: Provided always, That such table of fees shall be allowed by one or more of the

justices or barons of his Majesty's courts of record at Westminster before the same shall be used or acted upon.

LI. That the keeper or keepers for the time being of the prison for debtors of the said city of London shall and he and they is and are hereby required to receive and take into his or their custody respectively Penalty on all and every person and persons who shall be committed or ordered to keeper of prison stand committed by the said commissioners; and in case the keeper or neglecting his keepers of the said prison respectively shall neglect or refuse to receive duty. or take into his or their custody any person or persons committed by virtue of this act, or shall, before the expiration of the time for which any person or persons shall be committed to his or their custody, discharge such person or persons out of his or their custody, and wilfully suffer such person or persons to go at large, without a warrant or order for that purpose in writing, signed by the plaintiff or plaintiffs as aforesaid, or in court by the said commissioners or any three or more of them, such keeper or keepers respectively so offending in either of the said cases, and being thereof convicted before one or more of the aldermen of the said city upon the oath of one or more credible witness or witnesses (which oath such alderman and aldermen is and are hereby authorized and required to administer), or upon his or their own confession, shall for every such offence forfeit and pay the debt or debts and costs for which such person or persons shall have been committed to

the custody of such keeper or keepers, and also any sum not exceeding

twenty pounds, at the discretion of the said alderman or aldermen. LII. That if any beadle or beadles, serjeant or serjeants, or other Penalty on officer or officers of the said court employed to serve any execution beadle or sershall, by wilful neglect, omission, or connivance, cause or suffer the jeant neglectparty against whom such execution shall be awarded to escape or ing his duty. abscond, or the goods of such party to be carried away or secreted, so that such execution shall not have its due effect, it shall be lawful for the said commissioners, upon complaint, and due proof thereof made upon the oath or oaths of one or more credible witness or witnesses, to order such beadle, serjeant, or officer to pay the sum or sums of money for which such execution was awarded, or such part thereof as the said commissioners may think proper, to the party complaining, and to enforce the payment thereof by the same ways and means as are herein provided for the recovery of their debts; and it shall be lawful for the said commissioners and they are hereby enabled to impose any fine not exceeding twenty pounds for every such offence on such beadle or beadles, serjeant or serjeants, officer or officers, and to levy such fine by distress and sale of the goods and chattels of such beadle or beadles, serjeant or serjeants, or other officer or officers of the said court, rendering the overplus (if any), after deducting such fine, and the costs and charges of such distress and sale, to the owner or owners of such goods and chattels; and such fine, when so levied and recovered, shall be paid to and distributed by the said commissioners in such shares and proportions and in such manner amongst the poor of the several parishes and places within the jurisdiction of the said court as they the said commissioners may think fit and proper.

LIII. That if any clerk, beadle, serjeant, or any other officer or ser-Officers taking vant employed in putting this act or any of the powers thereof in execu- any fee besides tion, shall exact, take, or accept any fee or reward whatsoever, other the fees allowed than and except such fees as are or shall be appointed and allowed to to be disthem respectively as aforesaid, for or on account of any thing done or to charged and be done by virtue of this act, or on any account whatsoever relative to forfeit 101. putting this act into execution, every such person so offending shall upon conviction thereof before the said commissioners at any of their meetings, or upon verdict or judgment being had against him in such action as next herein-after mentioned, be for ever incapable of serving or being employed under this act in any office of profit or emolument, and shall, over and above, forfeit and pay the sum of ten pounds to any person or persons who shall sue for the same by action of debt, bill, plaint or in-

No. III. 5 & 6 W. 4, c. 94.

No. III. c. 94.

A list to be made out of unclaimed money.

formation in any of his Majesty's courts of record at Westminster, 5 & 6 W. 4, within three calendar months after the offence committed, in which suit no essoign or protection shall be allowed.

> LIV. That the clerk to the said commissioners shall and he is hereby required, in the month of June in every year, to make out and lay before the said mayor, aldermen, and commons, in common council assembled, a correct list of all sums of money which shall have been paid into court, and which shall have remained unreclaimed for the space of twelve calendar months or for any longer period next before the making out such list; and the said list shall also contain the names of the parties having paid such sum or sums of money, and also the names of the parties for whom or on whose account the same was or were so paid into

For supporting the dignity of the court, and preventing insuits.

LV. And for the more effectually maintaining the dignity and consequence of the said court, and to protect the commissioners, clerks, and officers of the said court from insult, be it further enacted, That if any person or persons shall contemptuously and wilfully insult or abuse all or any of the said commissioners, clerks, or officers of the said court for the time being, during his or their sitting or attendance in the said court, or going to or from the said court, or shall interrupt or obstruct the proceedings of the said court, then and in every such case it shall be lawful for the beadle or beadles, serjeant or serjeants, officer or officers of the said court, with or without the assistance of any other person or persons, by the order of the said commissioners, to take such offender or offenders into custody; and the said commissioners shall then examine into such insult, abuse, or misbehaviour, either from their own view or knowledge of what passed, or by the oath or oaths of one or more credible witness or witnesses; and upon such insult, abuse, or misbehaviour being duly proved as aforesaid it shall be lawful for the said commissioners, and they are hereby authorized and empowered, to impose a fine not exceeding ten pounds for each and every such offence on each and every such offender or offenders and in case of nonpayment forthwith to commit such offender or offenders to the common gaol or house of correction, for any space of time not exceeding one calendar month, unless the said fine or forfeiture shall be sooner paid.

Offices of clerk and treasurer not to be held by the same person.

LVI. Provided always, That it shall not be lawful for the said mayor, aldermen, and commons, in common council assembled, to appoint any person who may be appointed a clerk in the execution of this act, or the partner of any such clerk, or the clerk or other person in the service or employ of any such clerk or of his partner, the treasurer for the purposes of this act, or to appoint any person who may be appointed treasurer, or the partner of any such treasurer, or the clerk or other person in the service or employ of any such treasurer or of his partner, a clerk in the said court for the purposes of this act; and if any person shall accept both the offices of clerk and treasurer for the purposes of this act, or if any person being the partner of any such clerk, or the clerk or other person in the service or employ of any such clerk or of his partner, shall accept the office of treasurer, or shall act as deputy of the treasurer, or in any manner officiate for the treasurer, or being the partner of any such treasurer, or the clerk or other person in the service or employ of any such treasurer or of his partner, shall accept the office of clerk in the execution of this act, or shall act as deputy of such clerk, or in any manner officiate for such clerk, every such person so offending shall for every such offence forfeit and pay the sum of one hundred pounds to any person who shall sue for the same, to be recovered, with full costs of suit, in any of his Majesty's courts of record at Westminster, by action of debt or on the case, or by bill, suit, or information, wherein no essoign or protection shall be allowed.

Recovery and application of penalties.

LVII. That all fines, penalties, or forfeitures by virtue of this act imposed or authorized to be imposed (the manner of levying and recovering whereof is not hereby otherwise particularly directed) shall on proof of the offences respectively before any three or more of the com-

No. III.

c. 94.

missioners, or the lord mayor, or any one or more of the aldermen of the said city, by the confession of the party offending or by the oath of 5 & 6 W. 4. any credible witness or witnesses, be levied, together with the costs attending the information and conviction, by distress and sale of the goods and chattels of the party or parties offending, by warrant under the hand and seal of such commissioners, lord mayor, or alderman; and the overplus (if any), after such penalties, forfeitures, and fines, and the charges of such distress and sale, are deducted, shall be returned, upon demand, unto the owner or owners of such goods and chattels; and the monies arising by such penalties, forfeitures, and fines respectively, when paid and levied (if not otherwise directed to be applied by this act), shall be from time to time paid, one moiety to the informer, and the other moiety to the clerk to the commissioners, and shall be by the said commissioners distributed amongst the poor of the several parishes and places within the jurisdiction of the said court of requests; and in case such penalties, forfeitures, and fines respectively shall not be paid forthwith upon conviction, then it shall be lawful for such commissioners, lord mayor, or alderman to order the offender or offenders so convicted to be detained in safe custody until return can be conveniently made to such warrant or warrants of distress, unless the said offender or offenders shall give sufficient security to the satisfaction of such commissioners, lord mayor, or alderman for his, her, or their appearance before them or him on such day or days as shall be appointed for the return of such warrant or warrants of distress, such day or days not being more than eight days from the time of taking any such security, and which security such commissioners, lord mayor, and alderman are and is hereby empowered to take by way of recognizance or otherwise, as to them or him shall seem right and proper; but if upon return of such warrant or warrants it shall appear that no sufficient distress can be had thereupon, or in case it shall appear to the satisfaction of such commissioners, lord mayor, or alderman, either by the confession of the offender or offenders, or otherwise, that he, she, or they hath not nor have goods and chattels within the jurisdiction of such commissioners, lord mayor, or alderman, sufficient whereon to levy all such penalties, forfeitures, and fines, costs and charges, such commissioners, lord mayor, or alderman may, at their or his discretion, without issuing any warrant of distress, commit the offender or offenders to the common gaol or house of correction of the said city, there to remain without bail or mainprize for any time not exceeding three calendar months nor less than ten days, unless such penalties, forfeitures, and fines, and all reasonable charges attending the recovery thereof, shall be sooner paid and satisfied.

LVIII. That in all cases in which by this act any penalty or for- Justices may teiture is made recoverable by information before any commissioners, proceed by lord mayor, or alderman, it shall be lawful for any commissioners, lord summons in the mayor, or alderman to whom complaint shall be made of any offence recovery of peagainst this act, to summon before them or him the party complained nalties. against, and on such summons to hear and determine the matter of such complaint, and on proof of the offence to convict the offender, and to adjudge him or her to pay the penalty or forfeiture incurred, and to proceed to recover the same, although no information in writing shall have been exhibited before them or him; and all such proceedings by summons without information in writing shall be as valid and effectual to all intents and purposes as if an information in writing had been exhibited.

LIX. That in all cases where any conviction shall be had for any Form of conoffence or offences committed against this act the form of conviction viction. shall be in the words or to the effect following; (that is to say,)

^{&#}x27; RE it remembered, That on this in the year of the reign of

[!] A. B. is convicted before

No. III. c. 94.

of the com-'city of London, [or before

5 & 6 W. 4, 'missioners for the recovery of small debts within the city of London 'and liberties thereof,] of having [as the offence may be]; and I [or we] do adjudge him [her or them] the said

' to forfeit and pay for the same the sum of

given under my hand and seal [or our hands and seals] the day and year aforesaid.

Distress not unlawful for want of form.

LX. That where any distress shall be made for any sum of money to be levied by virtue of this act the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers, on account of any defect or want of form in the information, summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall the party or parties distraining be deemed a trespasser or trespassers ab initio on account of any irregularity which shall afterwards be done by the party or parties so distrained, but the person or persons aggrieved by such irregularity shall and may recover full satisfaction for the special damage in an action upon the case.

Proceedings not to be quashed for want of form.

LXI. That no order, verdict, or judgment, or other proceeding, made touching or concerning any of the matters aforesaid, or the conviction of any of the offender or offenders against this act, shall be quashed or vacated for want of form.

Plaintiffs not to tender of amends.

LXII. That no plaintiff or plaintiffs shall recover in any action to be recover without commenced against any person or persons for any thing done in purnotice, or after suance of this act unless notice in writing shall have been given to the defendant or defendants, and also to the clerk for the time being of the said commissioners, forty-two days before such intended action, signed by the attorney for the plaintiff or plaintiffs, specifying the cause of such action; nor shall the plaintiff or plaintiffs recover in any such action if tender of sufficient amends shall have been made to him, her, or them, er to his, her, or their attorney, by or on the behalf of the defendant or defendants before such action brought; and in case no such tender shall have been made it shall be lawful for the defendant or defendants in any such action, by leave of the court, after such action shall have been brought, at any time before issue joined, to pay into court such sum of money as he, she, or they shall think fit, whereupon such proceedings, order, and judgment shall be made and given in and by such court as in other actions where the defendant is allowed to bring money into court.

Limitation of actions.

LXIII. Provided always, That no action or suit shall be commenced against any person or persons for any thing done in pursuance of this act after three calendar months next after the fact committed; and every such action or suit shall be brought and tried in the city of London, and not elsewhere; and if any such action shall be brought before forty-two days' notice shall have been given, or after sufficient satisfaction made or tendered as aforesaid, or after the time limited for bringing the same as aforesaid, or shall be brought elsewhere than as aforeaid, then and in every such case the jury shall find for the defendant or defendants; and upon such verdict, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his, her, or their action or suit after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against such plaintiff or plaintiffs, then and in every such case the defendant or defendants shall recover his, her, or their costs, and have such remedy for recovering the same as any defendant hath for costs of suit in other cases by law.

Expences of obtaining and

LXIV. That the charges and expences attending the obtaining and passing of this act shall be paid and defrayed by, from, and out of the passing this act monies which shall from time to time been or hereafter shall be paid in how to be paid. the chamber of London on account of the business transacted in the said court of requests.

Commencement of this act. LXV. That this act shall commence and take effect from and

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after the thirtieth day of September one thousand eight hundred and No. III. thirty-five. 5 & 6 W. 4,

LXVI. Provided always, That at the expiration of six calendar c. 94. months next after any general act shall be passed for the recovery of small debts, and the operation of which general act shall extend to the This act to said city and liberties, every clause, matter, and thing in this act concease on the tained which shall extend or be construed to extend to give the commispassing of any sioners hereby appointed any such local or separate jurisdiction shall general act. cease and determine.

LXVII. That this act shall be deemed to be a public act, and Public act. shall be judicially taken notice of as such by all judges, justices, and others.

PART IV.

CLASS XVII.

STATUTES RELATING TO PERSONAL LIBERTY.

[There has been no recent enactment upon this subject.]

PART IV.

CLASS XVIII.

REAL ACTIONS.

[By the recent statute of limitations, 3 and 4 W. 4, c. 27, s. 35, all real or mixed actions, (except a writ of right of dower, or writ of dower unde nihil habet, or a quare impedit, or an ejectment,) and all plaints in the nature of such actions, except a plaint for freebench or dower, are abolished. See the clause and the other provisions of the act, ante, Part IV., Class VIII., Limitation of Actions.]

CLASS XIX.

DISTRESS, REPLEVIN, AND MATTERS RELATING TO LAND-LORD AND TENANT.

[No. I.] 11 G. IV. c. 11.—An Act for extending certain Provisions of an Act of the Eighth Year of Queen Anne, for the better Security of Rents, and to prevent Frauds committed by Tenants regarding Executions, to certain Process in use within the County Palatine of Durham and [8th April 1830.] Sadberge (1).

8 Ann. c. 17.

WHEREAS by an act passed in the eighth year of the reign of her late Majesty queen Anne, intituled An Act for the better Security of Rents, and to prevent Frauds committed by Tenants, it was enacted, That from and after the day therein named no goods or chattels whatsoever, lying or being in or upon any messuage, lands, or tenements which were or should be leased for life or lives, term of years, at will, or otherwise, should be liable to be taken by virtue of any execution on any pretence whatsoever, unless the party at whose suit the said execution was sued out should, before the removal of such goods from off the said premises by virtue of such execution or extent, pay to the landlord of the said premises, or his bailiff, all such sum or sums of money as were or should be due for rent for the said premises at the time of taking such goods or chattels by virtue of such execution, provided the said arrears of rent did not amount to more than one year's rent; and in case the said arrears should exceed one year's rent, then the said party at whose suit such execution was sued out, paying the said landlord or his bailiff one year's rent, might proceed to execute his judgment as he might have done before the making of that act; and the sheriff or other officer was thereby empowered and required to levy and pay to the plaintiff as well the money so paid for rent as the execution money: And whereas the said provision in the case of an execution does not extend to the case of certain process used within the county palatine of Durham and Sadberge, issuable from the courts of the said county palatine, or some or one of them, called a writ of pone per vadios, and a writ of extract thereon, by reason of such process not being an execution; for remedy whereof, be it enacted, &c., That from and after the passing of be removed by this act no goods or chattels whatsoever, lying or being in or upon any messuage, lands, or tenements within the said county palatine of Durham writ unless the and Sadberge, which are or shall be leased for life or lives, term of years, at will, or otherwise, shall be liable to be attached, removed, assigned, delivered over, or sold by virtue of any writ of pone per vadios, or of any writ of extract thereon, to be issued from the courts of the said county palatine, or any of them, on any pretence whatsoever, unless the party at whose suit any such writ is sued out shall, before the removal of such goods from off the said premises by virtue of any such writ of pone or writ of extract, or of either of them, or of any proceeding either by consent for sale or otherwise under such writs or either of them, pay to the landlord of the said premises, or his bailiff, all such sum or sums

No goods shall virtue of any party suing shall, before removal of goods, pay the rent due to the landlord.

⁽¹⁾ This act was passed in consequence of a decision of the court of King's bench, that the statute 8 Anne, c. 17, did not extend to the case of goods seised by the sheriff by virtue of a pone per vadios issued out of the court of pleas at Durham, and afterwards sold under a writ of *tract. See Brandling v. Barrington, 6 B. & C. 467.

of money as are or shall be due for the said premises at the time of the attaching or of the removal of such goods or chattels by virtue of such 11 G. 4, c. 11. writ of pone per vadios or extract; provided the said arrears of rent do not amount to more than one year's rent; and in case the said arrears shall exceed one year's rent, then the said party at whose suit such writ of pone per vadios or extract is sued out, paying to the said landlord or his bailiff one year's rent, may proceed to execute his said writs as he might have done before the passing of this act; and the said party at whose suit such writ of pone per vadios or extract is sued out is hereby empowered, by and out of the said goods or chattels, to recover or otherwise to repay to himself as well the money so paid for rent as the money due or payable to him under or by virtue of such writs or either of them.

No. I.

II. Provided always, and it is hereby enacted and declared, That Act not to affect nothing in this act contained shall extend or be construed to extend to debts due to let, hinder, or prejudice his Majesty, his heirs or successors, in the the king. levying, recovering, or seizing any debts, fines, penalties, or forfeitures that are or shall be due, payable, or answerable to his Majesty, his heirs, or successors; but that it shall and may be lawful for his Majesty, his heirs and successors, to levy, recover, and seize such debts, fines, penalties, and forfeitures in the same manner as if this act had never been made; any thing in this act contained to the contrary thereof in anywise notwithstanding.

[No. II.] 2 W. IV. c. 17.—An Act to repeal an Act passed in the Seventh Year of his late Majesty King George the Fourth, intituled An Act to amend the Law of Ireland respecting the Assignment and Subletting of Lands and Tenements; and to substitute other Provisions in lieu [24th March 1832.] thereof.

 \mathbf{W} HEREAS an act was passed in the seventh year of the reign of his 7 G. 4, c. 29. late Majesty king George the fourth, intituled An Act to amend the Law of Ireland respecting the Assignment and subletting of Lands and Tenements: And whereas it is expedient that the said act should be repealed, and that such of the provisions thereof as have been found beneficial should be re-enacted, with certain amendments: Be it therefore enacted, &c., That the said recited act be and the same is hereby repealed from Recited act and after the first day of May in the year of our Lord one thousand repealed. eight hundred and thirty-two, save and except as herein-after otherwise provided.

II. That where lands or tenements in Ireland are or shall be holden Where lands by virtue of any lease, instrument, or agreement in writing, which are held under lease, agreement, or instrument doth or shall contain any condition, lease contain-clause, or covenant prohibiting, controlling, or regulating the assign-ment or subletting of the lands or tenements demised or agreed to be ting, no future demised thereby, or of any part thereof, no act, matter, or thing whatever act of the landhereafter to be done or acquiesced in by the lessor or lessors, person or lord shall be persons contracting to lease by such deed, instrument, or agreement, deemed a or by his or their heirs, executors, administrators, or assigns, shall be waiver of such deemed, taken, or construed in any court of law or equity to be or covenant unless amount to a waiver of the benefit of any such condition, clause, or cove- he be a party nant; and that in any action or actions for the breach of any such con- to the instrudition, clause, or covenant, the benefit of which condition, clause, or ment of subletcovenant has not been heretofore waived, such lessor or lessors, contracting party or parties, and his and their heirs, executors, administrators, and assigns, shall be entitled to recover the possession of such lends or the possession of such lends or the possession of such lends or the lends or the lends of the le

lands or tenements by virtue of any such condition, or any penalty for such future breach of any such condition, clause, or covenant, accord-

No. II.

Particular or

special waiver

to other cases,

nor be deemed

Lessee subletting without

consent shall not have any

a general

wriver.

to the provisions of the same respectively, unless it shall be expressly 2 W. 4, c. 17. proved that such assignment or subletting was made with the consent of such lessor or lessors, contracting party or parties, his or their heirs, executors, administrators, or assigns, testified, where such assignment or subletting shall be by deed or written instrument, by his or their being a party to and signing and sealing such deed or written instrument, or some other deed or instrument containing such consent, or, where such assignment or subletting shall not be by deed or written instrument, testified by his or their consent in writing, or unless the benefit of such condition, clause, or covenant shall have been expressly waived by some writing signed by the party or parties entitled to the benefit thereof; and every such assignment or subletting, and every lease, deed, or instrument, or other agreement or proceeding, whereby such assignment or subletting shall be made without such consent as aforesaid, and testified as aforesaid, shall be and be deemed wholly null and void to all intents and purposes whatsoever, any law, statute, or usuage to the contrary in anywise notwithstanding.

III. Provided always, That where any actual waiver so to be made and testified as aforesaid of the benefit of any condition, clause, or coveshall not extend nant in any lease or instrument or agreements as aforesaid, or of the benefit of this act, on the part of the lessor or lessors, party or parties contracting to lease, or his or their heirs, executors, administrators, or assigns, shall be proved to have taken place in any one particular instance, such actual waiver shall not be assumed or deemed or construed to extend to any instance, or to any breach or breaches of covenant, clause, or condition, other than that to which such waiver shall specially relate, not to be a general waiver of the benefit of any such cove-

nant, clause, or condition, or of the benefit of this act.

IV. That in all cases the person assigning or subletting contrary to this act, without such consent signified as herein-before directed, shall not have or be entitled to any remedy, by distress or otherwise, for the recovery of any rent or sum reserved in and by any deed, written inremedy for the strument, or other agreement by which such subletting or assignment rent or occupashall be made, or for the occupation of any of the lands, or tenements tion of the land. so assigned or subletten, or for the recovery of such lands; any thing in any such deed, instrument, or agreement, or any law, statute, or

usage, to the contrary notwithstanding.

Persons holdwith consent of lessor, and paying rent to the party subletting, shall be acquitted sor so consentson deriving

V. That in all cases where any person or persons, being seised or ing lands under possessed of any lands or tenements in Ireland, (not being situate within an assignment, any city, town, or borough, or the liberties thereof) under any assignment or subletting duly made of or under any lease or demise to be hereafter made for any term not exceeding three lives or thirty-one years from the commencement thereof, and upon which a rent equal to three fourths of the annual value of the demised premises shall have been reserved, save and except ecclesiastical leases, and leases held under any against the les- corporation, and leases containing any covenant or compact for renewal, shall, at any time after the said first day of May one thousand eight ing, or any per- hundred and thirty-two, duly pay and satisfy the rent due from such person or persons, his or their heirs, executors, administrators, or title under him. assigns, to the person or persons, or his or their heirs, executors, administrators, or assigns, who shall have so assigned or sublet such lands or tenements, the receipt of such person or persons so assigning or subletting, or of his or their heirs, executors, administrators, or assigns shall be a full and sufficient discharge to such person or persons who shall have paid such rent, and to his and their heirs, executors, administrators, or assigns, as well against the person or persons so assigning or subletting, as also against the lessor or lessors or person or persons contracting with the person or persons so assigning or subletting, and the person or persons so having paid such rent, or his or their heirs, executors, administrators, or assigns, or his or their goods, chattels, or effects, lands or tenements, shall not be subject or liable to the

payment of or to any distress or other remedy for any rent due to such lessor or lessors, or to any person or persons deriving under him, her, 2 W. 4, c. 17.

or them, save as herein-after mentioned.

VI. Provided always, That in any case in which any lessee or lessees On failure of of any such lease as aforesaid, or the heirs, executors, or administra- payment of the tors of any such lessee or lessees, shall not duly pay the rent reserved rent by the in and by the lease or instrument under which such lands or tenements party assigning, shall be held by such lessees or lessees to the party or parties entitled to the landlord receive the same, it shall be lawful for the party or parties entitled to may give notice such rent, at any time when there shall be due to him, her, or them two to pay their or more full gales or portions of the rent reserved in such lease or in-rents to him. strument, to give notice in writing, in the form contained in the schedule annexed to this act, to all and every person or persons who shall be then in occupation of the lands and tenements which shall have been assigned or sublet as aforesaid, requiring each and every such person and such persons to pay to the party or parties giving such notice the rent reserved upon the holding or holdings of any and every such per-

No. II.

son or persons respectively.

VII. That from and after the delivery of such notice to any person or After such persons in occupation of any such lands or tenements as aforesaid, (by notice, sub-tebeing left at the house or usual place of abode of any and every such nants shall pay person or persons, either with such person or persons, or with some of to the superior the family of such person or persons respectively above the age of six-landlord, and his receipt shall teen years,) every such person and such persons shall pay to the land- be their dislord or landlords giving such notice, or to his or their heirs, executors, charge to all administrators, or assigns, all and every sums and sum whatsoever parties. due or to grow due for rent from such person or persons to the lessee or lessees so having assigned or subletten as aforesaid, or to his or their heirs, executors, administrators, or assigns; and from and after such notice as aforesaid, and until the satisfaction of all the sums due to the person or persons giving such notice on account of all rent due from such lessee or lessees having so assigned or subletten as aforesaid, the receipt of the person or persons giving such notice, or his or their heirs, executors, administrators, or assigns, shall be a full and sufficient discharge to the person or persons in the occupation of such lands or tenements, who shall have paid such rent, and to his and their heirs, executors, or administrators, against the person having so assigned or subletten as aforesaid, or his heirs, executors, or administrators; and the person or persons so having paid such rent, or his or their executors or administrators, or his or their goods, chattels, or effects, lands or tenements, shall not be subject or liable to the payment of any rent, or to any distress or other remedy for the same, to any person or persons under whom such person or persons may hold by reason of any such assignment or subletting as aforesaid, until such satisfaction as aforesaid.

VIII. That from and after the delivery of such notice as aforesaid, Landlord givand until the satisfaction of all rent and arrears of rent due to the party ing notice shall or parties giving such notice, or his or their heirs, executors, adminis- have power to trators, or assigns, he and they shall have and enjoy all such rights, recover rents. powers, and authorities for the recovering and enforcing the payment of any rent due and payable by any person or persons occupying the lands so assigned or sublet in manner aforesaid as could or might have been enjoyed, or as could or might have been legally exercised or enforced against any such person or persons respectively, by the party or parties so assigning or subletting in manner aforesaid; any thing in this act, or any law, usage, or custom, to the contrary notwithstanding.

IX. That where, under any assignment from any sheriff by virtue of Assignees of any execution, or under any assignment from any executors or adminis- leases containtrators, or from any assignee or assignees of any bankrupt or insolvent, ing covenant or by operation of law, devise, or otherwise, any person or persons against assignshall be legally or equitably seised or possessed of any lands or ing and subtenements held under any lease or demise made after the first day of letting liable to May one thousand eight hundred and thirty-two, and containing any covenants in original lease

No. II.

clauses, conditions, or covenants against assignment or subletting, such 2 W. 4, c. 17. person or persons so deriving shall hold such lands and tenements subject to the said clauses, conditions, and covenants in such lease or demise contained, and that as fully as if such person or persons had been the original lessees therein: Provided always, That where two or more persons shall together become seised or possessed, in manner aforesaid, of any lands or tenements so demised as aforesaid, such persons shall take and hold the same as joint tenants, and not as tenants in common; and that it shall not be lawful for such persons, or any of them, by any deed, matter, or thing, to assign such lands or tenements, save as herein-after provided, nor to sever such tenancy, nor to sue out or demand, or procure to be issued, any writ of partition, or any writ or process in the nature of a writ of partition; any law, usage, or custom to the contrary notwithstanding: Provided always, that nothing herein contained shall extend or be construed to extend to disable any one or more of such persons from assigning to any other or others of such persons his or their estate and interest, the same remaining subject, after such assignment, to such and the like restraints and incidents as attached upon the same before such assignment.

This act not to or agreements made between 1st June 1826 and let May 1832.

X. That nothing in this act contained shall extend or be construed to extend to leases extend to any lease, instrument, or agreement for a lease made at any time since the first day of June one thousand eight hundred and twenty-six, or to be made before the said first day of May one thousand eight hundred and thirty-two; and that all leases, instruments, ments, and agreements made or to be made in and during such interval, and all covenants, clauses, and conditions contained in such leases, instruments, and agreements, shall be and remain subject to, and be construed and governed by, the provisions of the said recited act of the

seventh year of the reign of his late Majesty.

Powers of recited act as to such leases to

XI. That so much and such parts of the said act as respects such leases, instruments, or agreements, and all covenants therein contained, shall be and remain in full force and effect, any thing in this act contained to the contrary notwithstanding: Provided always, that this act remain in force. shall not extend to any lease or demise containing any covenant or agreement for perpetual renewal, or to any lease for the term of nine hundred or any greater number of years.

SCHEDULE to which this Act refers.

FORM of NOTICE from a superior Landlord or Landlords to the Sub-tenant or Sub-tenants of such Landlord's or Landlords' immediate LESSEE or LESSEES.

To A. B. | or, et cetera. |

TAKE notice, That I [or we], the undersigned C. D., superior landlord [or landlords] of the lands and tenements underletten to you by E. F. [or, et cetera,] do hereby require you to pay to me [or us] the said C. D. [or, et cetera,] or to my [or our] heirs, executors, administrators, or assigns, all rent and arrears of rent payable by you for the said lands and tenements, until all sums due from the said E. F. [or, et cetera,] for his [or their] rent of the said lands and tenements shall be fully paid and satisfied to me [or us], or my [or our] heirs, executors, administrators, or assigns.

Witness my hand [or our hands] this day of in the year

To **A**. **B**. of C. D. [No. III.] 3 & 4 W. IV. c. 42.—An Act for the further Amendment of the Law, and the better Advancement of Justice. [14th August 1833.]

XXXVII. THAT it shall be lawful for the executors or administrators of any lessor or landlord to distrain upon the lands demised for any term, or at will, for the arrearages of rent due to such lessor or landlord in his lifetime, in like manner as such lessor or landlord

might have done in his lifetime.

XXXVIII. That such arrearages may be distrained for after the end or determination of such term or lease at will, in the same manner as if such term or lease had not been ended or determined, provided that such distress be made within the space of six calendar months after the determination of such term or lease, and during the continuance of the possession of the tenant from whom such arrears became due: Provided also, That all and every the powers and provisions in the several statutes made relating to distresses for rent, shall be applicable to the distresses so made as aforesaid.

[No. IV.] 4 W. IV. c. 22.—An Act to amend an Act of the Eleventh Year of King George the Second, respecting the Apportionment of Rents, Annuities, and other periodical Payments. [16th June 1834.]

WHEREAS by an act passed in the eleventh year of the reign of his 11 G. 2, c. 19. Majesty king George the second, intituled An Act for the more effectual securing the Payment of Rents, and preventing Frauds by Tenants, (1) it was enacted, that where any tenant for life should happen to die before or on the day on which any rent was reserved or made payable upon any demise or lease of any lands, tenements, or hereditaments which determined on the death of such tenant for life, the executors or administrators of such tenant for life should and might, in an action on the case, recover of and from such undertenant or undertenants of such lands, tenements, or hereditaments, if such tenant for life die on the day on which the same was made payable the whole, or if before such day then a proportion of such rent according to the time such tenant for life lived of the last year or quarter of a year or other time in which the said rent was growing due as aforesaid, making all just allowances, or a proportionable part thereof respectively: And whereas doubts have been entertained whether the provisions of the said act apply to every case in which the interests of tenants determine on the death of the person by whom such interests have been created, and on the death of any live or lives for which such person was entitled to the lands demised, although every such case is within the mischief intended to have been remedied and prevented by the said act; and it is therefore desirable that such doubts should be removed by a declaratory law: And whereas, by law, rents, annuities, and other payments due at fixed or stated periods are not apportionable (unless express provision be made for the purpose), from which it often happens that persons (and their representatives (whose income is wholly or principally derived from these sources by the determination thereof before the period of payment arrives are deprived of means to satisfy just demands, and other evils arise from such rents, annuities, and other payments not being apportionable, which evils require remedy: Be it therefore enacted and de-Rents reserved clared by the king's most excellent Majesty, by and with the advice and on leases deter.

consent of the lords spiritual and temporal, and commons, in this pre-mining on the

No. IV.

death of the person making them (though not strictly tenant for life), of the tenant pur autre vie,

All rents, annuities, and coming due at

sent parliament assembled, and by the authority of the same, That rents 4 W. 4, c. 22. reserved and made payable on any demise or lease of lands, tenements, or hereditaments which have been and shall be made, and which leases or demises determined or shall determine on the death of the person making the same (although such person was not strictly tenant for life thereof), or on the death of the life or lives for which such person was entitled to such hereditaments, shall, so far as respects the rents reserved by such leases, and the recovery of a proportion thereof by the or on the death person granting the same, his or her executors or administrators (as the case may be), be considered as within the provisions of the said recited

to be considered as within the provisions of recited act.

II. That from and after the passing of this act all rents service reserved on any lease by a tenant in fee or for any life interest, or by other payments any lease granted under any power (and which leases shall have been granted after the passing of this act), and all rents charge and other fixed periods to rents, annuities, pensions, dividends, moduses, compositions, and all be apportioned; other payments of every description, in the united kingdom of Great Britain and Ireland, made payable or coming due at fixed periods under any instrument that shall be executed after the passing of this act, or (being a will or testamentary instrument) that shall come into operation after the passing of this act, shall be apportioned so and in such manner that on the death of any person interested in any such rents, annuities, pensions, dividends, moduses, compositions, or other payments as aforesaid, or in the estate, fund, office, or benefice from or in respect of which the same shall be issuing or derived, or on the determination by any other means whatsoever of the interest of any such person, he or she, and his or her executors, administrators, or assigns, shall be entitled to a proportion of such rents, annuities, pensions, dividends, moduses, compositions, and other payments according to the time which shall have elapsed from the commencement or last period of payment thereof respectively (as the case may be), including the day of the death of such person, or of the determination of his or her interest, all just just deductions. allowances and deductions in respect of charges on such rents, annuities, pensions, dividends, moduses, compositions, and other payments being made; and that every such person, his or her executors, administrators, and assigns, shall have such and the same remedies at law and in equity for recovering such apportioned parts of the said rents, annuities, pensions, dividends, moduses, compositions, and other payments, when the entire portion of which such apportioned parts shall form part shall become due and payable, and not before, as he, she, or they would have had for recovering and obtaining such entire rents, annuities, pensions, dividends, moduses, compositions, and other payments if entitled thereto, but so that persons liable to pay rents reserved by any lease or demise, and the lands, tenements, and hereditaments comprised therein, shall not be resorted to for such apportioned parts specifically as aforesaid, but the entire rents of which such portions shall form a part shall be received and recovered by the person or persons who if this act had not passed would have been entitled to such entire rents; and such portions shall be recoverable from such person or persons by the parties entitled to the same under this act in any action or suit at law or in equity.

subject to all

Remedies for obtaining the apportioned parts.

Act not to apply

III. Provided always, That the provisions herein contained shall not to certain cases. apply to any case in which it shall be expressly stipulated that no apportionment shall take place, or to annual sums made payable in policies of assurance of any description.

[For the clause in the 11 G. 4, and 1 W. 4, c. 70, with respect to the recovery of possession by landlords after notice of ejectment, see ante, Part IV., Class I., p. 392.

For the provisions of the recent statute of limitations, 3 and 4 W. 4, c. 27, with reference to entries and distresses upon lands, see ante, Part III., Class VIII., Limitation of Actions. See also Part I., Class VIII., Leases.

CLASS XX.

ACTIONS AGAINST JUSTICES AND OTHER OFFICERS.

[There has been no recent general statute relating to actions against justices and other officers, but particular provisions are to be found in all the late acts imposing duties on persons in public situations, protecting them in the discharge of such duties, as for instance in the last smuggling act, 3 and 4 W. 4, c. 56, s. 103, 4, 5, 6, 7. See also the provisions of the 1 and 2 W. 4, c. 41, for the protection of special constables appointed under that act, post, Part VI., Class XI., Constables.]

CLASS XXI.

PENAL ACTIONS AND INFORMATIONS.

[For the provision of the 3 and 4 W. 4, c. 42, s. 3, with respect to the time within which actions for penalties, damages, or sums of money given to the party grieved by any statute now or hereafter to be in force shall be brought; see aute, Part IV., Class VIII., p. 463.]

CLASS XXII.

ACTIONS AGAINST THE HUNDRED.

[No. I.] 2 & 3 W. IV. c. 72.—An Act to extend the Provisions of an Act of the Seventh and Eighth Years of the Reign of His late Majesty King George the Fourth, relative to Remedies against the Hundred (1).

[1st August 1832.]

7 & 8 G. 4. c. 31.

Remedy may be had against damages done to threshing machines.

WHEREAS it is expedient to extend the provisions of an act made and passed in the seventh and eighth years of the reign of his late Majesty king George the fourth, intituled An Act for consolidating and amending the Laws in England relative to Remedies against the Hundred, to threshing machines: Be it therefore enacted, &c. That if any threshing machine, whether fixed or moveable, or any part thereof, shall be felothe hundred for niously cut, broken, damaged, or destroyed by any persons riotously and tumultuously assembled together, then and in every such case the inhabitants of the hundred, wapentake, ward, or other district in the nature of a hundred, or by whatever name it shall be denominated, in which any such offence shall be committed, shall be liable to yield full compensation to the person or persons damnified by the offence, not only for the damage so done to any such machines as aforesaid, but also for any damage which may at the same time be done by any such offenders to any erection or fixture whatever in or about or belonging to any such machines.

II. That the several clauses, remedies, and provisions contained in the said recited act shall extend and be construed to extend to such machines as are herein-before mentioned, as fully and effectually to all intents and purposes as if the same machines had been mentioned and

particularized in the said recited act.

III. Provided always, That nothing in this act contained shall extend to Scotland or to Scotland or Ireland.

threshing machines. Not to extend Ireland.

Provisions of

tended to

recited act ex-

(1) See this act, Evans's Statutes, Part IV, Class XXII.

CLASS XXIII.

KING'S DEBTS.

- [No. I.] 1 & 2 W. IV. c. 26.—An Act to amend an Act of the Second Year of the Reign of his Majesty King George the Third, and to appoint the number of Commissioners competent to grant Quietus to Public Accountants under an Act passed in the Fifty-sixth Year of the Reign of his Majesty King George the Third, for consolidating the Public Revenues of Great Britain and Ireland.
- [No. II.] 1 & 2 W. IV. c. 52.—An Act to repeal an Act passed in the Fifty-second Year of the Reign of his Majesty King George the Third, to provide for the more speedy Examination, Controlling, and finally Auditing the Military Accounts of Ireland.
- [No. III.] 2 & 3 W. IV. c. 26.—An Act to authorize the Commissioners for Auditing the Public Accounts of Great Britain to examine and audit Accounts of the Receipt and Expenditure of Colonial Revenues.
- [No. IV.] 2 & 3 W. IV. c. 99.—An Act for transferring the Powers and Duties of the Commissioners of Public Accounts in Ireland to the Commissioners for Auditing the Public Accounts of Great Britain.
- [No. V.] 2 & 3 W. 4, c. 103.—An Act to provide for the Examination and Audit of the Customs and Excise Revenues in Scotland.
- [No. VI.] 2 & 3 W. 4. c. 104.—An Act to regulate the period of rendering the Public Accounts and making up the general Imprest Certificates. [11th August, 1832.]
- WHEREAS the sums required for the various public services have been voted by the commons house of parliament for a period of five quarters, commencing on the first day of January last past, and ending on the thirty-first day of March one thousand eight hundred and thirty-three; and the estimates of the sums which will be required for the public service will henceforth be made up for the year ending on the thirty-first day of March, instead of the thirty-first day of December, as has hitherto been done: And whereas it is expedient that the rendering of the public accounts should correspond with such periods; be

No. VI. 2 & 3 W. 4, c. 104.

Treasury to to be made up for certain periods;

and delivered to commis-

Treasury may periods for making up general imprest certificates to end otherwise than as prescribed by 1 & 2 G. 4, c. 121.

Imprest certificates to be transmitted to commissioners of audit.

it therefore enacted, That it shall be lawful for the lord high treasurer. or the commissioners of his Majesty's treasury for the time being, or any three or more of them, and they are hereby authorized and empowered (if they shall deem it expedient), to order and cause all or any public accountants in any department of the public service to make up order accounts their accounts for such periods, and from and to such days, as to the said lord high treasurer or commissioners of the treasury shall seem expedient; and all and every such accountants and sub-accountants shall make up their respective accounts conformably to such orders as they shall hereafter receive from the lord high treasurer or the commissioners of the treasury, and shall render and deliver the same, so made up, to the commissioners for auditing the public accounts (whensoever by sioners of audit. law or usage they are required to deliver their accounts to the said commissioners of audit) within three calendar months of the day to which the said respective accounts shall be directed to be made up, unless the said commissioners of audit shall, in pursuance of the powers now vested in them, enlarge the said time for delivering the said respective accounts.

II. And whereas an act was passed in the first and second years of order quarterly the reign of his late Majesty king George the fourth, intituled An Act to alter and abolish certain Forms of Proceedings in the Exchequer and Audit Office, relative to Public Accountants, and for making further Provisions for the Purpose of facilitating and expediting the passing of Public Accounts in Great Britain; and to render perpetual and amend an Act passed in the Fifty-fourth Year of His late Majesty, for the effectual Examination of the Accounts of certain Colonial Revenues: And whereas it may be expedient to alter the quarterly periods prescribed by the said act for the making up and transmitting the general imprest certificates made out in the office of the auditor of the exchequer; be it therefore further enacted, That it shall be lawful for the lord high treasurer, or the lords commissioners of the treasury, or any three or more of them, and they are hereby authorised and empowered (if they shall deem it expedient), from time to time to order and direct that the quarterly periods for which the said general imprest certificates shall hereafter be made up shall end on other days instead of those prescribed by the said act, and to appoint and name such other days for that purpose; and the said general imprest certificates shall be made out accordingly, and shall be transmitted to the aforesaid commissioners for auditing the public accounts within thirty days after each of the said quarterly days to be appointed and named as aforesaid, instead of the days prescribed by the said act.

> [No. VII.] 3 & 4 W. IV. c. 99.—An Act for facilitating the Appointment of Sheriffs, and the more effectual Audit and Passing of their Accounts, and for the more speedy Return and Recovery of Fines and Issues, forfeited Recognizances, Penalties, and Deodands; and to abolish certain Offices in the Exchequer. [29th August 1833.]

> > [Inserted ante, Vol. I., Part IV., Class XIV.]

[No. VIII.] 4 W. IV. c. 15.—An Act to regulate the Office of the Receipt of His Majesty's Exchequer at Westminster. [22d May 1834.]

57 G. 3, c. 84. WHEREAS by an act passed in the fifty-seventh year of the reign of his late Majesty king George the third, intituled An Act to regulate the Offices of his Majesty's Exchequer in England and Ireland respectively, it was declared, that the offices of auditor and tellers of his

Majesty's exchequer in England and Ireland respectively, and of clerks No. VIII. of the pells in England and Ireland respectively, were offices with 4 W. 4, c. 15. respect to which it was expedient that a more economical execution of the duties thereof respectively, after the termination of the then existing interests therein, should be adopted; and it was thereby enacted, That from time to time thereafter as such respective offices should become vacant it should be lawful for the lord high treasurer of the united kingdom of Great Britain and Ireland, or the commissioners of his Majesty's treasury, for the time being, and they were thereby required to regulate the duties and establishments of the offices so becoming vacant, so that the said duties should be performed in person by such fit and proper persons as the said commissioners should deem sufficient and necessary, with such salaries or emoluments as should be ordered and appointed by the said commissioners in that behalf, the said commissioners laying before parliament an account of the new establishment of the respective offices so regulated, and all the regulations above mentioned, with a statement of the number of officers and amount of salaries of each respectively, together with a statement of the former establishment of the respective offices so regulated: And whereas, under the powers vested in the commissioners of his Majesty's treasury by the said act, the offices of auditor of the exchequer and clerk of the pells in Ireland have been abolished, and certain other arrangements have been made in the offices of teller of the exchequer in Ireland and clerk of the pells in England: And whereas his Majesty was pleased by his royal sign manual warrant, bearing date the twenty-first day of June one thousand eight hundred and thirty, to appoint certain commissioners to inquire into the charges of managing and collecting the public revenue, and into the manner in which the public monies were received into, kept in, and issued from the receipt of his Majesty's exchequer, and also by his royal sign manual warrant, bearing date the eighth day of July one thousand eight hundred and thirty-one, to appoint certain other commissioners to inquire and examine into the practice of the exchequer with respect to the receipt and payment of the public money, and the mode of keeping the accounts thereof: And whereas by a report of the said last-mentioned commissioners made thereupon to the commissioners of the treasury, bearing date the eighth day of October following, various arrangements, alterations, and improvements in the constitution of the court of the receipt of the exchequer, and in the practice and mode of keeping the accounts thereof, have been proposed to be adopted: And whereas it is expedient to carry into effect certain of the regulations proposed in the said report, and to that end to remodel the constitution of the exchequer at Westminster, and to effect the improvements intended, notwithstanding the existing interests in the several offices of the exchequer which have not as yet been determined: be it therefore enacted, &c., That from and Offices of auafter the commencement of this act, as herein-after mentioned, the ditor, tellers, several offices following in the exchequer at Westminster (that is to say), clerk of the the offices of auditor, and of each of the four tellers of the exchequer, pells, and the and of the clerk of the pells, and the several offices subordinate thereto, offices suborbe and the same are hereby abolished, and to that end that the several dinate thereto, patents, warrants, and authorities under which the same have been abolished. and are respectively held shall cease, determine, and become absolutely null and void; and that in lieu of the said several offices the constitu- New establishtion and establishment of the exchequer shall consist of the following ment. officers; (that is to say,) a comptroller general to be designated comptroller general of the receipt and issue of his Majesty's exchequer, with an annual salary of two thousand pounds; an assistant comptroller, a chief clerk, and such number of clerks and assistants, with such salaries, as shall be established and regulated from time to time by the commissioners of his Majesty's treasury.

II. That the office of the said comptroller shall be granted by letters Appointment of patent under the great seal of the united kingdom of Great Britain and compiroller.

No. VIII.

Assistant may act in certain cases.

Comptroller incapable of holding any other office.

l'owers of aupells transtroller.

Offices to be performed in person, &c.

Treasury to of books, accounts, warrants, instruments, &c.

Records, &c. relating to the delivered over to the comptroller.

Ireland, to continue in force during good behaviour, subject, however, 4 W. 4, c. 15. to his removal therefrom by his Majesty, his heirs and successors, on the address of the two houses of parliament; subject also to the abolition or regulation of his office at any future time by the authority of parliament; and that the duties, powers, and authorities by this act imposed on or vested in the comptroller shall and may, in the event of the illness or of the occasional and necessary absence of the said comptroller from his office, be executed by such assistant.

> III. Provided always, That the said comptroller shall not be capable of holding his office at the same time or together with any other office to be held during pleasure under the crown, or under any officer ap-

pointed by the crown.

IV. That all the powers and authorities now vested in the auditor ditor or clerk of of the exchequer or clerk of the pells, either by law or usage, shall, from and after the commencement of this act, be transferred to and ferred to comp- vested in the said comptroller, subject to the provisions of this act, except only so far as any of such powers or authorities are or shall be by this act controlled, diminished, or varied.

> V. That the said comptroller, assistant comptroller, chief and other clerks shall execute the duties of their respective offices in person; and that the office of the exchequer shall be kept open for public business, and attendance shall be given thereat by the said officers and clerks, throughout the year, on all such days and during the usual hours in which the office of his Majesty's treasury has been accustomed to or shall be kept open.

VI. That it shall be lawful for the commissioners of the treasury for establish forms the time being from time to time, by such orders and regulations as they shall see necessary for the safety, economy, and advantage of the public service, to establish and direct what books, accounts, and vouchers shall be kept and used in the said office of exchequer, and the forms thereof, as well as the forms of all warrants, specifications, instruments, and other documents which for the better carrying into effect the purposes of this act it shall be necessary to make use of in either of the said offices of the treasury and exchequer, or in any other public office whatsoever; and likewise in what manner the applications made to the treasury for credits for the services of the respective departments of expenditure shall be examined, approved, and recorded; and also in what books and in what manner the several instruments required or authorized by this act shall be entered, recorded, and acted upon; and the form of returns to be made by the said comptroller to the commissioners of the treasury, and the periods for making the same.

VII. That on the eleventh day of October one thousand eight hundred and thirty-four all books, records, deeds, papers, documents, and exchequer to be vouchers whatsoever relating to the office of the receipt of the exchequer, and all the standard weights and measures, and standard pieces of gold, silver, and copper, and all other articles of public property, (except monies and securities for money, and such documents as are by this act directed to be delivered over to the commissioners of the treasury) which shall then be in the custody, power, or control of the auditor, tellers, or clerk of the pells of the exchequer at Westminster, or of any of their officers or clerks, shall be delivered into the custody of the said comptroller, who shall thereupon take charge of the same, and by whom, or whose assistant, and by the officers subordinate to him, all such acts, matters, and things relating to the said standard weights and measures, and standard pieces of gold, silver, and copper, as have heretofore been or ought to be performed by any of the officers of his Majesty's exchequer, shall from thenceforth be performed and executed.

VIII. That on the said eleventh day of October, and between the over to the bank hours of ten in the forenoon and four in the afternoon, all monies, whether out cash or otherwise, and all bills, notes, and securities for money, belonging to the crown, in the chests or in the keeping, or at the dis-

Tellers to pay all monies, &c. in their hands.

posal of the tellers of his Majesty's exchequer or of any of the officers No. VIII. under them, or with which they or any of them shall be charged or 4 W. 4, c. 15. chargeable, shall be paid into the bank of England to the credit of his Majesty's exchequer, and that an account shall be thereupon opened by the governor and company of the said bank, to be called "The Account of his Majesty's Exchequer"; and that each of the said tellers and other officers of the exchequer who shall make any such payment into the said bank shall at the same time deliver a specification or statement in writing in duplicate, signed by himself with his own name, distinguishing the particulars of such payment and showing the total amount thereof, to the cashier of the bank or other officer to be appointed in that behalf, who shall enter the same in a book to be kept for that purpose, and sign a memorandum thereon of such entry having been so made, and shall transmit one of such duplicates to the comptroller of the exchequer, and also a certified copy thereof to the commissioners of the treasury; and the other of such duplicates, vouched and signed by the said cashier or other officer as aforesaid, shall be returned by him to the person making the payment, who shall deposit the same with the said comptroller of the exchequer, by whom an acquittance shall be made out, signed, and delivered to the party making the payment, which shall be to such party a legal and sufficient discharge with the auditors of the public accounts and all other persons whomsoever: Provided always, that the party making the payment shall at the same time transmit to the comptroller and also to the commissioners of the treasury a statement of the particulars of such payments, showing the sources from which the money so paid shall have been derived, and the services to which the same were applicable; And provided also, that such monies, whether out cash or otherwise, so to be paid over by the said tellers, shall remain chargeable and appropriated to the services to which any such monies are now specifically applicable; and that it shall be lawful for the commissioners of the treasury to give authority to the comptroller of the exchequer to apply the same accordingly.

IX. That upon and from and after the said eleventh day of October All public moall public monies which previous to the commencement of this act shall nies hitherto have been payable into his Majesty's exchequer at Westminster shall be payable into paid into the bank of England to the credit of the exchequer; and that the exchequer the party paying in any such money, or on whose account the same shall to be paid into be paid, shall in like manner deliver therewith a specification or statement the bank. of the particulars thereof in writing in duplicate under his hand, to be previously countersigned by the comptroller or his assistant, to the cashier or officer of the bank receiving the payment, to be by bim entered in manner already provided; and one of the said duplicates, having been vouched and signed by the said cashier or officer as aforesaid, shall be returned to the party making the payment, in order to his thereupon obtaining from the comptroller an aquittance in the manner hereinbefore directed with respect to payments made by the tellers; and at the close of each day on which any payment shall be made into the bank on account of the exchequer there shall be transmitted from thence by the cashier or other officer of that establishment the other of the said duplicate specifications (with the entry thereof marked on each) to the said comptroller, together with a statement of the particulars of all sums paid into the bank on that day; and a copy of such statement, certified by the cashier or other proper officer, shall at the same time be transmitted from the bank to the commissioners of the treasury.

X. That all monies paid into the bank of England on account of the Monies paid to exchequer shall be treated by the governor and company of the said the account of bank as forming one fund in their books; and that all warrants or orders the exchequer to be made by the comptroller of the exchequer for credits to the vari- to form one ous officers to whom money is to be issued for the public service shall fund in the be satisfied out of such general fund: Provided always, that in the bank books. accounts to be kept by the comptroller of the exchequer and by the

No. VIII.

commissioners of the treasury, the receipts, credits, and issues shall be 4 W. 4, c. 15. placed to the several and respective accounts to which they shall severally and respectively belong, according to the enactments of the act or acts under the authority of which the monies are received and the credits and issues directed; and provided also, that, in directing the transfer of any credits from the general account of his Majesty's exchequer at the bank of England, all the provisions of the several statutes now in in force whereby the appropriation of the consolidated fund of Great Britain and Ireland is authorized and directed shall be strictly observed and followed.

Royal order for issuing money to the different departments of the public service.

XI. That from and after the commencement of this act, whenever any sum or sums of money shall have been granted to his Majesty by any act of parliament or vote of the house of commons for any specified branch of the public service, and ways and means shall likewise have been granted for satisfying and making good the same, it shall be lawful for his Majesty, by his royal order under the royal sign manual, to be countersigned by the commissioners of the treasury, to authorize and require the said comptroller to place at the bank of England, to the credit of the public accountant to the crown in the respective branch of service, the amount of the sum so granted or voted, at such times and in such proportions as the said commissioners shall from time to time direct, to be applied by such officer to such service; and that such royal order shall contain a reference to the particular act or vote of parliament, and shall, after having been recorded and entered by the commissioners of the treasury in their books, be transmitted to the said comptroller to be entered on record, and to remain in his office, the said comptroller having first satisfied himself that the said order has been made in conformity with and has not exceeded the amount of the grant of parlia-

Treasury warrant.

XII. That it shall be lawful for the commissioners of the treasury, by warrant under their hands, from time to time as they shall see expedient and proper, to authorize and require the said comptroller to transfer from the general fund of the exchequer at the bank to the credit of the respective officers whose duty it shall be to make payments on account of the several public departments such sums as shall be requisite for carrying on the respective services; and every such warrant shall recite the substance of the royal order upon which it is founded, referring to the act or vote therein mentioned, and shall specify the total amount of the monies authorized by such order to be issued, and the credits (if any) which have previously been issued on account thereof, and of the balance still remaining to be issued; and upon the receipt of every such warrant at the office of the said comptroller the same shall be compared with the royal order, and with the preceding warrants (if any) which shall have been made in pursuance thereof; and the said comptroller, having satisfied himself that such warrant has been made in conformity with and has not exceeded in amount the royal order, shall from time to time, (in pursuance of directions to that effect from the commissioners of the treasury), by a warrant under his hand, authorize the governor and company of the bank of England to grant credits on account of the sum or sums therein mentioned to the person or persons therein described, which warrant shall be forwarded to the said governor and company, who, on the receipt thereof, shall grant the credit thereby required.

Exchequer warrant.

Warrants for the issues of on the consolimay be made without royal order.

XIII. That in all cases of grants by parliament, charged on the consolidated fund of the united kingdom, or upon any public monies spemonies charged cially appropriated by any act or acts of parliament to or for any particular objects or services, and in all cases where by any act or acts or any dated fund, &c. other lawful authority the auditor of the exchequer is now required to make and pass debentures for the payment of any such charge or charges. it shall be lawful for the said commissioners of the treasury and they are hereby required, by warrant under their hands, without any such royal order as aforesaid, from time to time to authorize and require the said comptroller to accredit the several persons whose duty it may be to pay such charges with the sums requisite for that purpose; and every such 1 W. 4, c. 15. last-mentioned warrant shall contain a reference to the act or acts of parliament by which such sums shall be charged on the said fund or on such other public monies so specifically appropriated; and the said comptroller, on the receipt of the said warrant, having first satisfied himself that the payments therein directed are duly authorized by law, shall from time to time, in pursuance of directions to that effect from the commissioners of the treasury, by warrant in writing authorize and direct the governor and company of the bank of England to grant credits on account of the sum or sums mentioned in the treasury warrant to the officer or person whose duty it shall be to make the payment; and the said governor and company, on the receipt of such warrant of the comptroller, shall grant the credit thereby directed.

XIV. Provided always, That in cases in which any credit shall be Credits not to granted to any person by the said governor and company, in pursuance be accomof this act, no sum of money shall be transferred from the account of panied by his Majesty's exchequer until the same shall be actually paid by the bank actual transto or on account of the person to whom such credit shall be granted: fers. Provided always, That nothing in this act contained shall be construed to alter or affect the regulations now in force by virtue of any act or acts relating to the payment of the dividends on account of the public

debt.

XV. And whereas it is expedient to provide for the payment of sala- Treasury to ries, allowances, and other charges hitherto payable in detail at the ex- appoint officers chequer; be it therefore further enacted, That from and after the com- for paying salamencement of this act all salaries, allowances, incidents, and other ries, &c. charges now payable in detail at the exchequer under the authority of parliament, or under royal sign manual, or under the authority of the commissioners of the treasury duly authorized by law to order such payments, shall be paid by a paymaster or officer to be for that purpose appointed by the commissioners of the treasury, with such number of clerks and assistants as the said commissioners shall deem requisite for carrying on and fully executing the several duties connected with or incident to such payments, which duties shall be performed by the said paymaster and his assistants under such regulations as the said commissioners shall from time to time establish; and that so soon as such appointment shall have taken place all papers and documents relating to such payments and duties which shall appear to the commissioners of the treasury to be necessary for the proper discharge of the duties of the said paymaster, and which shall then be in the custody or power of any of the officers of the exchequer, shall be by them delivered over to and remain in the custody of the said commissioners of the treasury.

XVI. That the several books to be kept in the office of the comptroller Books of compgeneral of the exchequer and in the office of the paymaster to be ap_ troller and pointed under the authority of this act shall be deemed books of record, paymaster to be and shall be received as such, in all courts of law and equity and else-deemed of where, in evidence of the entries therein respectively contained, and of record. the debts thereby respectively charged against the several and respective

accountants to the crown.

XVII. That the said paymaster's account shall be kept at the bank of Paymaster's

England, and be deemed for all purposes a public account.

XVIII. That the commissioners of the treasury shall, previously to Treasury to the period fixed for the commencement of this act, and from time to time transmit to the afterwards as they may think proper, transmit to the bank of England bank a list of and to the comptroller of the exchequer a list of the several public officers cers or individuals who are required to keep public accounts at the bank required to keep of England; and that upon the death, resignation, or removal of any accounts there. such public officers or individuals, the balance of their credits on the Ondeath of any exchequer funds, and also the balance of cash on their public accounts, public officer, in the backs of the bank, shall upon the appointment of their success his account in the books of the bank, shall, upon the appointment of their succescessors, unless otherwise provided for by law, vest in and be transferred and bank to

account.

No. VIII. his in

As to fractional parts of a penny.

Bank to transmit statements of credits and payments.

Bills of exto be payable at the bank after three o'clock.

Treasury may establish rules

Quarterly statements to be made by comptroller to the commissioners of audit, and annual statements to pa liament.

to the account of such successors, and shall not in the case of the death 1 W. 4, c. 15. of any such individual constitute assets of the deceased, or be in any manner subject to the control of his personal representative. successor in office.

> XIX. That in all payments to be made and accounts to be kept under this act the fractional parts of one penny shall be excluded therefrom.

> XX. That the governor and company of the bank of England shall and they are hereby required to transmit from day to day to the said comptroller an account of the several payments actually made by them in the course of the preceding day on account of the credits granted by him; and the said governor and company shall likewise weekly transmit to the commissioners of the treasury a statement specifying the sums of money paid within the preceding week to the drafts or orders of the several public accountants to whom credits shall have been granted by the said governor and company in pursuance of the warrants of the said comptroller, distinguishing the payments on each account, and also a statement of the balance of money remaining in the bank at the close of each such week on account of the exchequer; all which several statements shall be authenticated by the signature of one of the cashiers or other officer of the bank to be appointed for that purpose.

XXI. That no bill of exchange drawn on any public officer or departchange, &c. not ment for the public service, and accepted payable at the bank of England, nor any cheque, draft, or order for the payment of money drawn by any person or accountant authorized to draw for the public service, shall from and after the commencement of this act be payable at the bank of England at any time after three of the clock in any day.

XXII. And whereas, by reason of the alterations by this act directed to be made in the proceedings and practice of his Majesty's exchequer for keeping ac- with respect to the receipt and issue of the public monies, it will be necounts of pub- cessary that new regulations should be prescribed for the government lic departments. of the several receivers general and other collectors of the revenue in their transactions with the bank of England; be it therefore enacted, That it shall be lawful for the commissioners of the treasury from time to time to establish rules and regulations for keeping the accounts of of the several respective departments of the revenue with the bank of England, and for the payment of the public monies collected by such departments to the account of the exchequer; which several rules and regulations shall be certified by the commissioners of the treasury to the governor and company of the bank of England and to the several and respective departments of the revenue, and shall be of full force and authority, and shall be observed by all bodies and persons whatsoever in relation to all matters and things therein contained; any thing in any act or acts to the contrary notwithstanding.

XXIII. That from and after the commencement of this act the comptroller of the exchequer shall, within one week next after the termination of each quarter in every year, transmit to the commissioners for auditing the public accounts a statement of all payments made to the bank on account of the exchequer, and of all the credits for which warrants shall have been granted by him upon the bank, during that quarter, together with a statement of all monies drawn by the said accountants during the course of the quarter, as certified to him by the governor and company of the bank of England; and the said comptroller shall also cause to be prepared and laid before each house of parliament, on the twentieth day of April in every year, if parliament shall be then sitting, and if not, then within seven days after the next meeting of parliament, an account under his hand for such preceding year, ending on the fifth day of April, showing the amount of all monies received during that period to the account of his Majesty's exchequer, and distinguishing the same under the several and respective heads of public revenue, and showing also the amount of all royal orders and treasury warrants received by him, and the issues made from the bank on credits given pursuant thereto, under the respective heads aforesaid,

and stating the balance of monies remaining at the bank to the account No. VIII. of the exchequer at the close of each such year, which said account 1 W. 4, c. 15. shall be accompanied by a certificate, under the hand of the principal cashier of the bank of England, which such cashier is hereby required to give, of the sum which actually remained on the books of the bank to the credit of his Majesty's exchequer on the said fifth day of April.

XXIV. That the annual account made up on each quarter day, which Surplus reveby an act passed in the tenth year of the reign of his late Majesty king nue to be as-George the fourth, the commissioners of the treasury are required to certained by cause to be prepared, of the actual receipt and expenditure of the united receipts and bingdom, according to the actual receipt and issue of monies at his Ma credits at the kingdom, according to the actual receipt and issue of monies at his Ma-bank. jesty's exchequer, shall, from and after the commencement of this act, so far as relates to Great Britain, be made out according to the actual receipt of money at the bank on the account of the exchequer and of credits granted thereout by the warrants of the comptroller; and the surplus directed by the said act to be issued and applied towards the reduction of the national debt, being thereby ascertained, shall be issued

and applied accordingly in the manner directed by the said act.

XXV. And whereas the practice which has heretofore prevailed of Fees on issues taking or deducting monies, in the nature of fees, upon the issue of for the public public monies to the several departments, has been found to be attended service abowith expence and inconvenience; be it therefore further enacted, That lished. from and after the commencement of this act the fees heretofore charged and taken at the exchequer upon the issues of money to and receipts of money from the several departments of or accountants to the crown for the public service shall cease and be no longer payable; and that in all cases in which any payments made to individuals at the exchequer have been heretofore chargeable with fees or deductions it shall be lawful for the commissioners of the treasury and they are hereby required, from and after the commencement of this act, to reduce all such payments to the several and respective net amounts heretofore received from the exchequer by the several and respective parties.

XXVI. That from and after the commencement of this act all ex- As to the prechequer bills to be thereafter made out under the authority of any act of paration of exparliament shall be prepared, made out, and numbered in the office of the chequer bills. said comptroller at such times and in such form as the commissioners of the treasury shall from time to time direct; and that the several regulations in relation to the making out, issuing, and paying off exchequer bills which are established by an act passed in the forty-eighth year of the reign of his Majesty king George the third, intituled An Act for 48 G. 3, c. 1. regulating the issuing and paying off of Exchequer Bills, or by any other act or acts with respect to the issue and application of exchequer bills under the authority of such acts, shall continue in force, except in so far as the same shall be altered by any of the provisions of this act; and that all such bills shall be signed by the said comptroller, or in his name by his assistant, and shall be issued and applied to the public service at such times and in such manner as shall be directed by the commissioners of the treasury, or in such manner and upon such authorities as shall have been specially directed with respect thereto by any act or acts now in force, the said comptroller taking care that such bills are made and issued according to law.

XXVII. That a return, setting forth all orders and regulations, and Return of regudescribing all books and forms of accounts and vouchers, which shall lations to be have been ordered and prescribed by the commissioners of the treasury, made to parshall be laid before parliament on or before the fifth day of April one liament. thousand eight hundred and thirty-five, if parliament be then sitting, and if not then sitting, within six weeks from the day of the next ensuing meeting of parliament.

XXVIII. That if any person shall forge, counterfeit, or alter, or cause Punishing peror procure to be forged, counterfeited, or altered, or knowingly and wil- sons guilty of lingly act, aid, or assist in forging, counterfeiting, or altering, any war- forgery. rant, order for payment, or other document whatsoever by this act di-

No. VIII.

rected or authorized to be issued or made, or shall utter or publish as 4 W. 4, c. 15. true, or knowingly or willingly act, aid, or assist in uttering or publishing as true, knowing the same to be forged, counterfeited, or altered, any such warrant, order for payment, or other document whatsoever, with intent to defraud his Majesty, the governor and company of the bank of England, or any other person or persons, any person so offending shall be deemed guilty of felony, and shall upon conviction be transported beyond the seas for the term of his natural life.

Compensation to two of the tellers and to the clerk of the pells.

XXIX. And whereas it is just and reasonable that full compensation should be made to the several officers of the exchequer at Westminster who now hold their offices for life or during good behaviour; be it therefore enacted, That there shall be paid to Henry Earl Bathurst and to Spencer Perceval esquire, two of the present tellers of the exchequer at Westminster, respectively, during their respective lives, by quarterly payments, the amount of the annual salaries to which they are at present respectively entitled by virtue of their respective offices; and that there shall be paid to the right honourable Henry Ellis, the present clerk of the pells of the Exchequer at Westminster, the tenure of whose office is during good behaviour, the annual sum of one thousand and four hundred pounds, being the amount of his present salary, by quarterly payments: Provided always, That a proportionate part of such several sums shall be paid to the executors or administrators of the several and respective parties in the event of the death of any of them during the course of any quarter.

Compensation to Marquis Camden.

XXX. And whereas the most noble John Jeffries Marquis Camden, one other of the present tellers of the Exchequer, hath, in pursuance of a proposition made by him, and in consideration of the state of the country, paid in aid of the public revenue towards the exigencies of the state the surplus of the fees, perquisites, and emoluments of his office, after abating thereout the necessary charges and expences of the establishment thereof, reserving to himself only the annual salary of a teller authorized by an act passed in the twenty-third year of the reign of his late Majesty king George the third, for establishing certain regulations in the receipt of his Majesty's exchequer; which contribution has to the present time amounted to the sum of two hundred and forty-four thousand four hundred and seven pounds ten shillings and eleven-pence: And whereas, in consideration of the said contribution so made to the public service, and of the voluntary surrender of the profits and emoluments accruing to him by law in right of his office, it is just and proper that the full rights and interests of the said Marquis Camden should not be impaired or altered by any thing in this act contained; be it therefore enacted, That from and after the passing of this act it shall be lawful for the commissioners of his Majesty's treasury to direct the payment to the said Marquis Camden, out of the consolidated fund, of such amount or sum of money quarterly and every quarter as shall be equal to the amount of the fees on the several quarterly issues made from the exchequer for the public service, on which, prior to the passing of this act, such fees would have attached and become payable to the said Marquis Camden.

Treasury may sation to the other officers.

As to officers who shall be continued in employment on the establishment.

XXXI. That it shall be lawful for the commissioners of his Majesty's grant compen- treasury to grant to the several other persons in the several offices of the present establishment of the exchequer such annual allowances, by way of compensation for the suppression of their respective offices, as to the said commissioners shall seem just.

> XXXII. Provided always, That no such compensation shall be paid to the present clerk of the pells or to any person holding an office on the present establishment of his Majesty's exchequer, save and except the two present tellers of the exchequer, who shall be appointed to an office of equal or greater emolument under the crown; and that such compensation shall be reduced if any such officer, save and except as aforesaid, shall be appointed to an office of smaller emolument than that of the office he previously held, so as that the salary or emolument attached

to the office to which he shall be so appointed, together with the com- No. VIII. pensation granted to him, shall not exceed the salary of the office pre- 4 W. 4, c. 15.

viously held by him.

XXXIII. That the compensations hereby granted or authorized to be Compensations, granted, and those which are at present charged on the fee fund of the salary, &c. exchequer, amounting to the annual sum of eight thousand three hun-charged on the dred and twenty-three pounds, and the salary and allowance to the said consolidated comptroller, shall be charged on the consolidated fund of the united fund. kingdom of Great Britain and Ireland, and that it shall be lawful for the commissioners of the treasury from time to time, by their warrant for that purpose, to direct the requisite sums of money to be credited by the said comptroller to the paymaster or other officer to be appointed for payment of such compensations and salary.

XXXIV. That all powers given to or vested in the commissioners of Powers bereby the treasury by this act may be executed by any three of such commis- given to the sioners for the time being; and that all enactments, matters, and things treasury may be herein contained relating to public monies shall extend and be construed executed by to extend to all bills, drafts, and notes as securities for money received any three com-

to the use of the public.

XXXV. That nothing in this act contained or authorized to be done Deeds, powers shall extend to destroy or affect the validity of any deeds, powers of ofattomey, &c. attorney, or other instruments which at the commencement of this act not to be afshall be in force with respect to any monies theretofore receivable at the fected. exchequer under the authority of the same, but that all such deeds, powers of attorney, and other instruments shall continue of like validity with respect to any such payments to be thereafter made by the paymaster to be appointed under the authority of this act.

XXXVI. That this act shall commence and take effect on and from Commencethe eleventh day of October one thousand eight hundred and thirty-four; ment of act. and that from and after the commencement thereof an act of the eighth Repeal of and ninth years of the reign of king William the third, for the better 8 & 9 W. 3, observation of the course anciently used in the receipt of the exchequer; c. 28. and also an act passed in the sixth year of the reign of king George the 6 G. 2, c. 6. second, for obviating a doubt which might arise upon an act made in the fourth year of his said Majesty's reign as therein recited; and so much of an act passed in the twenty-third year of the reign of his late Majesty Part of 23 G. 3. king George the Third, for establishing certain regulations in the receipt c. 82. of his Majesty's exchequer, as relates to the use of an indented cheque receipt to be made out by the auditor, and as requires the custody of one of the keys to the teller's chests, the standard weights and measures, and the standard pieces of gold and silver, to be committed to the auditor; and so much of an act of the thirty-ninth and fortieth years of his Part of 39 & 40 said Majesty king George the third, for more effectually charging G. 3, c. 54. public accountants with the payment of interest, and for other purposes therein mentioned, as requires the commissioners for auditing the public accounts to transmit a certain account to the auditor of the exchequer, and requires the auditor to transmit to the said commissioners quarterly accounts of monies paid into the exchequer; and an act passed in the forty-sixth year of the reign of his said Majesty king George the third, 46 G. 3, c. 1. to empower the auditor of the exchequer to constitute a trustee for the execution of the said office in the case therein mentioned; and so much of an act of the first and second years of the reign of his late Majesty Part of 1 & 2 king the fourth, for altering and abolishing certain forms of proceedings G. 4, c. 121. in the exchequer and audit office relative to public accounts, and for other purposes therein mentioned, as requires the transmission of general imprest rolls to the office of his Majesty's remembrancer, and as relates to imprest certificates; and so much of the provisions of any act or acts of parliament relating to the office of the receipt of his Majesty's exchequer as are altered by this act; shall be and the same are hereby repealed.

[No. IX.] 5 & 6 W. IV. c. 55.—An Act for facilitating the Appointment of Sheriffs in Ireland, and the more effectual Audit and passing of their Accounts, and for the more speedy Return and Recovery of Fines, Fees, Forfeitures, Recognizances, Penalties, and Deodands; and to abolish certain Offices in the Court of Exchequer in Ireland; and to amend the Laws relating to Grants in Custodiam and Recovery of Debts in Ireland; and to amend an Act of the Second and Third Years of his present Majesty, for transferring the Powers and Duties of the Commissioners of Public Accounts in Ireland to the Commissioners for Auditing the Public Accounts of Great Britain.

PART IV.

CLASS XXIV.

ECCLESIASTICAL AND MARITIME COURTS.

[No. I.] 2 W. IV. c. 51.—An Act to regulate the Practice and the Fees in the Vice-Admiralty Courts abroad, and to obviate Doubts as to their Jurisdiction. [23rd June 1832.]

WHEREAS it is expedient that provision should be made for the regulation of the practice to be observed in the suits and proceedings in the courts of vice admiralty in his Majesty's possessions abroad, and for the establishment of fees to be allowed and taken in the said courts by the respective judges, officers, and practitioners therein: be it therefore enacted, &c., That it shall be lawful for his Majesty, with the empowere to advice of his privy council, from time to time to make and ordain such make regularules and regulations as shall be deemed expedient touching the practions and estatice to be observed in suits and proceedings in the several courts of blish fees in the vice admiralty at present or hereafter to be established in any of his vice-admiralty Majesty's possessions abroad, and likewise from time to time to make, courts abroad. ordain, and establish tables of fees to be taken or received by the judges, officers, and practitioners in the said courts, for all acts to be done therein, and also from time to time, as shall be found expedient, to alter any such rules, regulations, and fees, and to make any new regulations and table or tables of fees; and that all such rules, regula- and fees to be tions, and fees, after the same shall have been so made and established inrolled in the or altered, from time to time be entered or inrolled in the public books respective or records of the said courts, so far as such practice and fees shall relate courts. or apply to each of such courts respectively.

II. That a copy of every table of fees so to be from time to time The tables of made and established or altered shall be laid before the house of com- fees to be laid mons within three calendar months next after the making and estab- beforethehouse lishment or alteration thereof respectively, if parliament shall be then of commons. sitting, and if not, then within one calendar month next after the sub-

sequent meeting of parliament.

III. That the several fees so to be established, and no other, shall, Fees so estabfrom and after the making and establishment thereof, and the entry and lished to be the inrolment thereof as aforesaid, be deemed and taken to be the lawful only lawful fees of the several judges, officers, ministers, and practitioners of the fees. said respective courts; and such fees only shall and may be demanded,

received, and taken accordingly.

IV. And to the intent that all such regulations and fees may be pro- Copies of the mulgated and publicly made known, be it further enacted, That the regulations and judge and registrar of every such court shall cause to be kept constantly tables of fees to hung up and preserved in some conspicuous part of every such court, be hung up in and in the office of the registrar, a copy of the table of fees so to be each court. from time to time ordained and established in such courts respectively. so that the said table may be seen and read by all persons having any business in any such court and office respectively; and that the books or records containing the entries of the said regulations and tables of fees, as the same shall be in force, shall be at all seasonable times open to the inspection of the practitioners and suitors in every such court.

V. That in all cases in which proceedings may be had in any of the Appeal to the said vice admiralty courts, if any person shall feel himself aggrieved by high court of the charges made by any of the officers or practitioners therein, and the admiralty in allowance thereof by such vice admiralty court, by reason that such cases of costs. charges are not warranted by the tables herein-before mentioned, it

No. I.

shall be lawful for such person or his agent, under the regulations to be 2 W. 4, c. 51. established in pursuance of the powers given by this act, by summary application to the high court of admiralty to have the said charges taxed by the authority thereof.

Vice-admiralty courts to have jurisdiction in certain maritime causes.

VI. And whereas in certain cases doubts may arise as to the jurisdiction of vice admiralty courts in his Majesty's possessions abroad, with respect to suits for seamen's wages, pilotage, bottomry, damage to a ship by collision, contempt in breach of the regulations and instructions relating to his Majesty's service at sea, salvage, and droits of admiralty; be it therefore enacted, That in all cases where a ship or vessel, or the master thereof, shall come within the local limits of any vice admiralty court, it shall be lawful for any person to commence proceedings in any of the suits herein-before mentioned in such vice admiralty court, notwithstanding the cause of action may have arisen out of the local limits of such court, and to carry on the same in the same manner as if the cause of action had arisen within the said limits.

[No. II.] 2 & 3 W. IV. c. 92.—An Act for transferring the Powers of the High Court of Delegates, both in Ecclesiastical and Maritime Causes, to his Majesty in Council.

[7th August 1832.] 25 H. 8, c. 19. WHEREAS by an act passed in the twenty-fifth year of the reign of king Henry the eighth, and intituled The Submission of the Clergy and Restraint of Appeals, it is (amongst other things) provided, that for lack of justice at or in any of the courts of the archbishops of this realm, or in any of the king's dominions, it should be lawful to the parties grieved to appeal to the king's Majesty in the king's court of chancery; and that upon every such appeal a commission should be directed under the great seal to such persons as should be named by the king's highness, his heirs or successors, like as in case of appeal from the admiral's court, to hear and definitely determine such appeals, and the causes concerning the same; which commissioners so by the king's highness, his heirs or successors, to be named or appointed, should have full power and authority to hear and definitely determine every such appeal, with the causes and all circumstances concerning the same; and that such judgment and sentence as the said commissioners should make and decree in and upon any such appeal should be good and effectual, and also definitive, and that no further appeals should be had or made from the said commissioners for the same; and that all manner of provocations and appeals thereafter to be had, made, or taken, from the jurisdiction of any abbots, priors, or other beads and governors of monasteries, abbeys, priories, and other houses and places exempt, in such cases as they were wont or might afore the making of the act now in recital, by reason of grants or liberties of such places exempt, to have or make immediately any appeal or provocation to the bishop of Rome otherwise called pope, or to the see of Rome, in all those cases every person and persons having cause of appeal or provocation should and might take and make their appeals and provocations immediately to the king's Majesty of this realm, into the court of chancery, in the manner and form as they used afore to do to the see of Rome; which appeals and provocations so made should be definitively determined by authority of the king's commission in such manner and form as was in the said act now in recital above mentioned, so that no archbishop or bishop of this realm should intermit or meddle with any such appeals otherwise or in any other manner than they might have done afore the making of the act now in recital; any thing in the act now in recital to the contrary thereof notwithstanding: And whereas by an act passed in the eighth year of the reign of queen Elizabeth, and

intituled For the avoiding of tedious Suits in Civil and Marine Causes, it is

2 & 3 W. 4, c. 92.

provided that every such judgment and sentence definitive as should be given and pronounced in any civil and marine cause, upon appeal lawfully to be made therein to the queen's Majesty in her highness' court of chancery, by such commissioners or delegates as should be nominated and appointed by her Majesty, her heirs or successors, by commission under the half seal, as it had been theretofore used in such cases, should be final, and that no further appeal should be made from the said judgment or sentence definitive, or from the said commissioners or delegates, for or in the same; any law, usage, or custom to the contrary notwithstanding: And whereas the persons who from time to time have been appointed commissioners by commission under the great seal or under the half seal, by virtue of the authority of either of the herein-before recited acts, have been commonly called "The High Court of Delegates:" And whereas, notwithstanding the herein-before recited acts, the king's Majesty for the time being hath out of his royal favour occasionally granted, upon petition to him in council made for that purpose, a commission under the great seal authorizing the commissioners therein named to review the judgments and decrees of the high court of delegates so appointed as aforesaid. And whereas it is expedient that the herein-before recited act of the eighth year of queen Elizabeth, and also so much of the herein-before recited act of the twenty-fifth year of king Henry the eighth as relates to the appeal to his Majesty in chancery, should be repealed, and that all the powers which by virtue of either of the said acts have or might have been enjoyed by the said high court of delegates should be in future exercised by his Majesty in council, and that no such commission of review as aforesaid should hereafter be granted; be it therefore enacted, &c., 25 H. 8, c. 19, That the herein-before recited act of the twenty-fifth year of the reign so far as relates of king Henry the eighth, so far as relates to any power thereby given to to the power of appeal in any case to the king's Majesty in his high court of chancery, appeal and to and so far as the same empowers his Majesty to grant a commission the appointunder the great seal authorizing the persons therein named to hear ment of deleand determine such appeals, shall, as from the first day of February gates, repealed one thousand eight hundred and thirty-three, be and the same is hereby from 1 Feb. repealed.

II. That the herein-before recited act of the eighth year of the 8 E., c. 5, rereign of queen Elizabeth shall, as from the first day of February one pealed from thousand eight hundred and thirty-three, be and the same is hereby I Feb. 1833. repealed.

III. That from and after the said first day of February one thousand From 1 Feb. eight hundred and thirty-three it shall be lawful to and for every per- 1833, powers son who might heretofore, by virtue of either of the said recited acts, of the high have appealed or made suit to his Majesty in his high court of chancery, court of dele-to appeal or make suit to the king's Majesty, his heirs or successors, gates trans-in council within such time in such manner and subject to such rules feered to the in council, within such time, in such manner, and subject to such rules, King in counorders, and regulations for the due and more convenient proceeding, as cil; and no shall seem meet and necessary, and upon such security, if any, as his commission of Majesty, his heirs and successors, shall from time to time by order in review to be council direct; and that the king's Majesty, his heirs and successors, thereafter in council, shall thereupon have power to proceed to hear and determine granted. every appeal and suit so to be made by virtue of this act, and to make all such judgments, orders, and decrees in the matter of such appeal or suit as might heretofore have been made by his Majesty's commissioners appointed by virtue of either of the herein-before recited acts if this act had not been passed; and that every such judgment, order, and decree so to be made by the king's Majesty, his heirs and successors, shall have such and the like force and effect in all respects whatsoever as the same respectively would have had if made and pronounced by the aforesaid high court of delegates; and that every such judgment, order, and decree shall be final and definitive, and that no commission shall hereafter be granted or authorized to review any judgment or decree to be made by virtue of this act.

No. II. c. 92.

Proviso for appeals now pending, or which may be peading previous to 1 Feb. 1833.

IV. Provided always, That nothing herein contained shall extend to 2 & 3 W. 4, affect any appeal now pending, or which before the said first day of February one thousand eight hundred and thirty-three may be pending, to his Majesty in chancery, by virtue of either of the herein-before recited acts, or to affect the right of his Majesty to grant any such commission under the great seal or under the half seal as aforesaid, to hear and adjudicate upon any appeal so now pending, or which may before the said first day of February one thousand eight hundred and thirtythree be pending; and that every judgment or decree of the said high court of delegates; by virtue of either of the said recited acts, already made or hereafter to be made, in any cause so now pending or which shall be so pending as aforesaid, shall have such and the like force and effect in all respects as if this act had not been passed.

> [No. III.] 2&3 W. IV. c. 93.—An Act for enforcing the Process upon Contempts in the Courts Ecclesiastical of England and Ireland. [7th August 1832.]

> WHEREAS great inconvenience has been found to arise by reason of

the process of the several ecclesiastical courts in England and Ire-

land being inoperative and unavailable out of the limits of the respective jurisdictions of such courts, and against persons having privilege of peerage, lords of parliament, and members of the house of commons; and in many instances a failure of justice hath thereby ensued: And whereas it is expedient, for remedy thereof, that the process of the said several courts, and the means of enforcing obedience to the same, should be of equal force and have the like operation, as well in that part of the united kingdom of Great Britain and Ireland called England as in that part of the same united kingdom called Ireland, and as well against persons having privilege of peerage, lords of parliament, and members of the house of commons, as against all other his Majesty's subjects: Where persons Be it therefore enacted, &c., That in all causes which according to the residing beyond laws of this realm are or may be cognizable in any of the several ecclethe jurisdiction siastical courts, as well in that part of the united kingdom of Great Britain and Ireland called England as in that part of the same united kingdom called Ireland, when any person or persons, as well those which have or hereafter shall have privilege of peerage, or are or hereafter may be peers of parliament or members of the house of commons, as all others who shall happen to be domiciled or residing either in England or in Ireland, and beyond the limits of the jurisdiction of the court in which such causes have been or shall have been respectively instituted or commenced, or shall be depending, having been duly cited to appear in any cious, and cer- such ecclesiastical court, whether in England or in Ireland, or required tify the same to to comply with any lawful order or decree, as well final as interlocutory, the lord chan- which hath been or shall have been made by any such court respectively, shall neglect or refuse to pay obedience to any such lawful order or dewithin ten days, cree, or when any such person or persons shall commit a contempt in the face of such court, or any other contempt towards such court, or the process thereof, it shall be lawful for the judge or judges out of whose court the citation or process hath already issued or may hereafter issue, or whose lawful orders or decrees have not or shall not have been obeyed, or before whom such contempt in the face of the court shall be committed, or by whose order or authority such process in respect of or towards which any such contempt shall have been committed has been or shall be awarded or issued, or the successor or successors in office of such judge or judges respectively, to pronounce such person or persons contumacious and in contempt, and within ten days after such person or persons shall have been so pronounced to be contumacious and in contempt to signify the same to the lord chancellor, lord keeper or lords commissioners for the custody of the great seal of England for the time being respectively, whenever the person or persons who shall have been

of any ecclesiastical courts are cited to appear, &c. and refuse obedience, the judge thereof may pronounce them contumacellor, &c. and thereupon a writ de contumace capiendo shall issue. unless the person be a peer, &c.

607 No. III. 3 & 4 W. 4, c. 93.

so pronounced contumacious and in contempt shall be domiciled or residing in England, and within the like period of ten days to signify the same to the lord chancellor, lord keeper or lords commissioners for the custody of the great seal of Ireland for the time being respectively, whenever the person or persons who shall have been so pronounced contumacious and in contempt shall be domiciled or residing in Ireland, in the form annexed to an act of parliament made and passed in the fifty- 53 G. 3, c. 127. third year of the reign of his late Majesty king George the third, intituled An Act for the better Regulation of Ecclesiastical Courts in England, and for the more easy Recovery of Church Rates and Tithes; and thereupon, and in case the person so reputed to be in contempt shall not be a peer, lord of parliament, or member of the house of commons, a writ de contumace capiendo shall issue from his Majesty's said high court of chancery in England or in Ireland, as the case may happen, to be directed to the same persons to whom writs de excommunicato capiendo were by law returnable before the passing of the said act of parliament, and the same shall be returnable in like manner as the writ de excommunicato capiendo had been theretofore by law returnable, and shall have the same force and effect as the last-mentioned writ; and all rules and regulations All regulations not altered by the said act of the fifty-third year of his said Majesty and provisions George the third, and which before the passing the same act applied to applying to the the said writ de excommunicato capiendo, and the proceedings following writ de excomthereupon, and particularly the several provisions contained in a certain municato, and act passed in the fifth year of the reign of queen Elizabeth, intituled proceedings An Act for the due Execution of the Writ De excommunicato capiendo, thereupon, shall extend and be applied to the said writ de contumace capiendo, and shall be applied the proceedings following thereupon, as if the same were herein parti-contumace. cularly repeated and enacted; and the proper officers of the said two several high courts of chancery in England and Ireland, as the case may ⁵ Eliz. c. 23. happen to be, are hereby authorized and required to issue such writ de contumace capiendo accordingly; and all sheriffs, gaolers, and other officers in England and in Ireland, as the case may happen to be, are hereby required and authorized to execute the same, by taking and detaining the body of the person or persons against whom the said writ shall be so directed to be executed; and upon the due appearance of the Upon the apparty or parties so cited and not having obeyed as aforesaid, or the due pearance or submission of the party or parties so having committed a contempt in the submission of face of the court, or otherwise, as herein-before is mentioned, the judge the party, the or judges of such ecclesiastical court, whether in England or in Ireland, judge may as the case may be, shall pronounce such party or parties absolved from order him to be the contumacy and contempt aforesaid, and shall forthwith make an absolved or order upon the sheriff, gaoler, or other officer in whose custody he, she, discharged. or they shall be, in the form to the said act of the fifty-third year of the reign of his said Majesty George the third annexed, for discharging such party or parties out of custody; and such sheriff, gaoler, and other officer shall, on the said order being shown to him, so soon as such party or parties shall have discharged the costs lawfully incurred by reason of such custody and contempt, forthwith discharge him, her, or them.

to the writ de

II. That in all such cases as are herein-before mentioned, and which Where persons are or may be cognizable in any or either of the several herein-before possessed of mentioned courts, when any person or persons, as well such person or estates, &c. in persons as have or shall hereafter have privilege of peerage, or are or England negshall hereafter be lords of parliament or members of the house of commons, as others who shall happen to be domiciled or residing either in
the said courts, England or in Ireland, have been or shall have been ordered or required, the judges may by the lawful order or decree, final or interlocutory, of any such court pronounce such respectively, to pay any sum or sums of money, and when any such persons contuperson or persons, after having been duly monished, shall refuse or macious, and neglect to comply with such monition, and to pay the sum or sums of certify the same money therein ordered to be paid by him or them, within the time and to the lord in the manner in any such order or decree mentioned or expressed, or chancellor, who

shall cause pro

No. III. against the esin England

a peer or lord of parliament or member of the house of commons shall 2 & 3 W. 4, refuse or withhold obedience, or shall in any way neglect to perform or shall not perform any decree or order, final or interlocutory, of such courts as aforesaid, it shall be lawful for the judge or judges who shall cass of seques- have made such order or decree, or his or their successor or successors tration to issue in office, to pronounce the person or persons so neglecting or refusing to comply with such order or decree contumacious and in contempt, and tate of the party within ten days after such person or persons shall have been so pronounced contumacious and in contempt to cause a copy of such order or decree, under the seal of the court wherein the same shall have been made, or under the hand or hands of such judge or judges, or one of them, to be exemplified, and certified to the lord chancellor, lord keeper or lords commissioners for the custody of the great seal of England for the time being respectively, whenever the person or persons who shall have been so pronounced contumacious shall be domiciled or residing, or shall be seised or possessed of or entitled to any real or personal estate, goods, chattels, or effects, situate, lying, or being in England; and the said lord chancellor, lord keeper or lords commissioners for the custody of the great seal of England, shall forthwith cause such copy of such order or decree, when it shall be presented to them respectively, so exemplified, to be inrolled in the rolls of the high court of chancery in England, and shall thereupon cause process of sequestration to issue against the real and personal estate, goods, chattels, and effects, in England, of the party or parties against whom such order or decree shall have been made, in order to enforce obedience to and performance of the same, in the same manner and form, and with the like power and effect, as if the cause wherein such order or decree shall have been made had been originally cognizable by and instituted in the said court of chancery in England, and as if all and every the process of the said court of chancery in England ordinarily issuing in causes there pending antecedent to process of sequestration had been duly issued and returned in the last-mentioned court; and it shall and may be lawful for the said lord chancellor, lord keeper, or lords commissioners of the great seal in England, to make such order and orders in respect of or consequent upon such sequestration, or in respect of the real or personal estate, goods, chattels, or effects sequestrated by virtue thereof, as he or they shall from time to time think fit, or for payment of all or any of the monies levied or received by virtue thereof into the bank of England, with the privity of the accountant general of the said court of chancery in England, to the credit and for the benefit of the party or parties who shall have obtained such order or decree, if the same was for payment of money, or if not, to the credit of the high court of chancery; and the governor and company of the bank of England are hereby authorized and required to receive and hold all such monies, subject to the orders of the said court of chancery: Provided always, That no such monies shall be charged with or subject to poundage when the same shall be paid out by order of the said court.

The like provision as to persons powersed of estates, &c. in Ireland.

III. That in all such causes as are herein before mentioned, and which are or may be cognizable in any of either of the several hereinbefore mentioned courts, when any person or persons, as well such person or persons as have or shall hereafter have privilege of peerage, or are or shall hereafter be lords of parliament or members of the house of commons, as others, who shall happen to be domiciled or residing either in England or in Ireland, hath or have been or shall have been ordered or required by the lawful order or decree, final or interlocutory, of any such court respectively, to pay any sum or sums of money, or to do any other act or thing, and when any such person or persons, after having been duly personally served with a copy or copies of such order or decree, shall refuse or neglect to comply therewith, or to pay the sum or sums of money therein ordered to be paid by him or them, or to do the act or thing required by such order to be done, within the time and

No. III 2 & 3 W. 4, c. 93.

in the manner in any such order or decree mentioned or expressed, it shall be lawful for the judge or judges who shall have made such order or decree, or his or their successor or successors in office, to pronounce the person or persons so neglecting or refusing to comply with such order or decree contumacious and in contempt, and within ten days after such person or persons shall have been so pronounced contumacious and in contempt to cause a copy of such order or decree, under the seal of the court wherein the same shall have been made, or under the hand or hands of such judge or judges, or one of them, to be exemplified, and certified to the lord chancellor, lord keeper or lords commissioners for the custody of the great seal of Ireland, for the time being respectively, whenever the person or persons who shall have been so pronounced contumacious and in contempt shall be domiciled or residing, or shall be seised or possessed of or entitled to any real or personal estate, goods, chattels, or effects, situate, lying or being in Ireland, and within the like period of ten days and after such last-mentioned person or persons shall have been pronounced contumacious and in contempt to cause a copy of such order or decree to be exemplified, and certified in manner herein-before mentioned to the barons of his Majesty's court of exchequer in that part of the united kingdom called Ireland, whenever the person or persons who shall have been so pronounced contumacious and in contempt shall be domiciled or residing, or shall be seized or possessed of or entitled to any real or personal estate, goods, chattels, or effects, situate, lying, or being in Ireland; and the said lord chancellor, lord keeper or lords commissioners for the custody of the great seal of Ireland, shall forthwith cause such copy of such order or decree, when it shall be presented to them respectively, so exemplified, to be inrolled in the rolls of the high court of chancery in Ireland, and shall thereupon cause process of sequestration to issue against the real and personal estate, goods, chattels, and effects, in Ireland, of the party or parties against whom such order or decree shall have been made, in order to enforce obedience to and performance of the same, in the same manner and form, and with the like power and effect, as if the cause wherein such order or decree shall have been made had been originally cognizable by and instituted in the said court of chancery in Ireland, and as if all and every the process of the said court of chancery in Ireland ordinarily issuing in causes there pending antecedent to process of sequestration had been duly issued and returned in the last-mentioned court; and it shall and may be lawful for the said lord chancellor, lord keeper or lords commissioners of the great seal in Ireland, to make such order or orders in respect of or consequent upon such sequestration, or in respect of the real or personal estate, goods, chattels, or effects sequestered by virtue thereof, as he or they shall from time to time think fit, or for payment of all or any of the monies levied or received by virtue thereof into the bank of Ireland, with the privity of the accountant general of the said court of chancery in Ireland, to the credit and for the benefit of the party or parties who shall have obtained such order or decree, if the same was for the payment of money, or if not, then to the credit of the said high court of chancery; and the governor and company of the said bank of Ireland are hereby authorized and required to receive and hold all such monies, subject to the orders of the said court of chancery in Ireland: Provided always, That no such monies shall be charged with or subject to poundage for the usher of the said court of chancery in Ireland, or otherwise, when the same shall be paid out by order of the last-mentioned court.

IV. That none of the provisions of this act shall extend to any order Act not to exor decree, or the refusing or neglecting to perform any order or decree, tend to orders which shall have been made more than six years before the passing of made six years this act.

V. That if any action or suit shall be brought or commenced for any Limitation of thing done in pursuance of this act, every such action or suit shall be actions. commenced within three calendar months next after the fact committed,

No. III. c. 93.

General issue.

and not afterwards, and shall be laid and tried in the city or county 2 & 3 W. 4, wherein the cause of action shall have arisen, and not elsewhere; and the defendant or defendants in such action or suit shall and may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance or by the authority of this act; and if the same shall appear to have been so done, or if any action or suit shall be brought after the time limited for bringing the same, or shall be laid in any other city, county, or place than as aforesaid, then the judge shall find for the defendant or defendants; and upon such verdict, or if the plaintiff or plaintiffs shall be nonsuited, or suffer a discontinuance of their action or suit after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and shall have such remedy for the same as any defendant or defendants hath or have for costs of suit in any other case by law.

Treble costs.

PART IV.

CLASS XXIV .-- A.

PRIVY COUNCIL.

No. I.] 3 & 4 W. IV. c. 41.—An Act for the better Administration of Justice in His Majesty's Privy Council. [14th August 1833.]

WHEREAS by virtue of an act passed in a session of parliament of the second and third years of the reign of his present Majesty, inti- 2 & 3 W. 4. tuled An Act for transferring the Powers of the High Court of Delegates, c. 92. both in Ecclesiastical and Maritime Causes, to his Majesty in Council, in was enacted, that from and after the first day of February one thousand eight hundred and thirty-three it should be lawful for every person who might theretofore, by virtue either of an act passed in the twenty-fifth 25 H. 8, c. 19. year of the reign of king Henry the eighth, intituled The submission of the Clergy and Restraint of Appeals, or of an act passed in the eighth 8 Eliz. c. 5. year of the reign of queen Elizabeth, intituled For the avoiding of tedious suits in Civil and Marine Causes, have appealed or made suit to his Majesty in his high court of chancery, to appeal or make suit to the king's Majesty, his heirs or successors, in council, within such time, in such manner, and subject to such rules, orders, and regulations for the due and more convenient proceeding, as should seem meet and necessary, and upon such security, if any, as his Majesty, his heirs and successors, should from time to time by order in council direct: And whereas, by letters patent under the great seal of Great Britain, certain persons, members of his Majesty's privy council, together with others, being judges and barons of his Majesty's courts of record at Westminster, have been from time to time appointed to be his Majesty's commissioners for receiving, hearing, and determining appeals from his Majesty's courts of admiralty in causes of prize: And whereas, from the decisions of various courts of judicature in the East Indies, and in the plantations, colonies, and other dominions of his Majesty abroad, an appeal lies to his Majesty in council: And whereas matters of appeal or petition to his Majesty in council have usually been heard before a committee of the whole of his Majesty's privy council, who have made a report to his Majesty in council, whereupon the final judgment or determination hath been given by his Majesty: And whereas it is expedient to make certain provisions for the more effectual hearing and reporting on appeals to his Majesty in council and on other matters, and to give such powers and jurisdiction to his Majesty in council as herein-after mentioned: Be it therefore enacted, &c., That the president Certain persons for the time being of his Majesty's privy council, the lord high chan- to form a comcellor of Great Britain for the time being, and such of the members of mittee, to be his Majesty's privy council as shall from time to time hold any of the styled "The offices following, that is to say, the office of lord keeper or first lord com-Judicial Commissioner of the great seal of Great Britain, lord chief justice or judge of mittee of the the court of king's bench, master of the rolls, vice chancellor of England, Privy Council." lord chief justice or judge of the court of common pleas, lord chief baron or baron of the court of exchequer, judge of the prerogative court of the lord archbishop of Canterbury, judge of the high court of admiralty and chief judge of the court of bankruptcy, and also all persons members of his Majesty's privy council who shall have been president thereof or held the office of lord chancellor of Great Britain, or shall have held any of the other offices herein-before mentioned, shall form a committee of his Majesty's said privy council, and shall be styled "The

Judicial Committee of the Privy Council: " Provided nevertheless, that

Appeals from courts abroad, to the king in council.

3 & 4 W. 4, it shall be lawful for his Majesty from time to time, as and when he shall think fit, by his sign manual, to appoint any two other persons, heing privy councillors, to be members of the said committee. II. That from and after the first day of June one thousand eight

vice admiralty hundred and thirty-three all appeals or applications in prize suits and in all other suits or proceedings in the courts of admiralty, or vice admiralty &c. to be made courts, or any other court in the plantations in America and other his Majesty's dominions or elsewhere abroad, which may now, by virtue of any law, statute, commission, or usage, be made to the high court of admiralty in England, or to the lords commissioners in prize cases, shall be made to his Majesty in council, and not to the said high court of admiralty in England or to such commissioners as aforesaid; and such appeals shall be made in the same manner and form and within such time wherein such appeals might, if this act had not been passed, have been made to the said high court of admiralty or to the lords commissioners in prize cases respectively; and that all laws or statutes now in force with respect to any such appeals or applications shall apply to any appeals to be made in pursuance of this act to his Majesty in council.

All appeals from sentence of any judge, &c. to be referred by his Majesty to the committee, to report thereon.

His Majesty may refer any

other matters

to committee.

No matter to

in presence of

four members

of the com-

mittee.

III. That all appeals or complaints in the nature of appeals whatever, which, either by virtue of this act, or of any law, statute, or custom, may be brought before his Majesty or his Majesty in council from or in respect of the determination, sentence, rule, or order of any court, judge, or judicial officer, and all such appeals as are now pending and unheard, shall from and after the passing of this act be referred by his Majesty to the said judicial committee of his privy council, and that such appeals, causes, and matters shall be heard by the said judicial committee, and a report or recommendation thereon shall be made to his Majesty in council for his decision thereon as heretofore, in the same manner and form as has been heretofore the custom with respect to matters referred by his Majesty to the whole of his privy council or a committee thereof, (the nature of such report or recommendation being always stated in open court).

IV. That it shall be lawful for his Majesty to refer to the said judicial committee for hearing or consideration any such other matters whatsoever as his Majesty shall think fit, and such committee shall

thereupon hear or consider the same, and shall advise his Majesty thereon in manner aforesaid.

V. That no matter shall be heard, nor shall any order, report, or rebe heard unless commendation be made by the said judicial committee, in pursuance of this act, unless in the presence of at least four members of the said committee; and that no report or recommendation shall be made to his Majesty unless a majority of the members of such judicial committee present at the hearing shall concur in such report or recommendation: Provided always, that nothing herein contained shall prevent his Majesty if he shall think fit, from summoning any other of the members of his said privy council to attend the meetings of the said committee.

In case the king directs the attendance of any judge, a member of the committee, the the court to which he belongs to make arrangements with regard to the business of the court.

Evidence may ha taken vivâ

VI. That in case his Majesty shall be pleased, by directions under his sign manual, to require the attendance at the said committee for the purposes of this act of any member or members of the said privy council who shall be a judge or judges of the court of king's bench, or of the court of common pleas, or of the court of exchequer, such arrangeother judges of ments for dispensing with the attendance of such judge or judges upon his or their ordinary duties during the time of such attendance at the privy council as aforesaid shall be made be by the judges of the court or courts to which such judge or judges shall belong respectively in regard to the business of the court, and by the judges of the said three courts, or by any eight or more of such judges, including the chiefs of the several courts, in regard to all other duties, as may be necessary and consistent with the public service.

VII. That it shall be lawful for the said judicial committee, in any

matter which shall be referred to such committee, to examine witnesses by word of mouth, (and either before or after examination by deposition,) 3 & 4 W. 4, or to direct that the depositions of any witness shall be taken in writing by the registrar of the said privy council, to be appointed by his Majesty as herein-after mentioned, or by such other person or voce, or upon persons, and in such manner, order, and course as his Majesty in coun-written deposicil or the said judicial committee shall appoint and direct; and that the tions. said registrar and such other person or persons so to be appointed shall have the same powers as are now possessed by an examiner of the high court of chancery or of any court ecclesiastical.

VIII. That in any matter which shall come before the said judicial Committee may committee it shall be lawful for the said committee to direct that such order any parwitnesses shall be examined or re-examined and as to such facts as to the ucular witsaid committee shall seem fit, notwithstanding any such witness may nesses to be not have been examined, or no evidence may have been given on any such examined, and facts in a previous stage of the matter; and it shall also be lawful for ticular facts, big. Majesty in council, on the recommendation of the said committee. his Majesty in council, on the recommendation of the said committee, and may remit upon any appeal, to remit the matter which shall be the subject of such causes for reappeal to the court from the decision of which such appeal shall have been hearing. made, and at the same time to direct that such court shall rehear such matter, in such form, and either generally or upon certain points only, and upon such rehearing take such additional evidence, though before rejected, or reject such evidence before admitted, as his Majesty in council shall direct: and further, on any such remitting or otherwise, it shall be lawful for his Majesty in council to direct that one or more feigned issue or issues shall be tried in any court in any of his Majesty's dominions abroad, for any purpose for which such issue or issues shall to his Majesty in council seem proper.

IX. That every witness who shall be examined in pursuance of this Witnesses to be act shall give his or her evidence upon oath, or if a Quaker or Moravian examined on upon solemn affirmation, which oath and affirmation respectively shall oath, and to be be administered by the said judicial committee and registrar, and by liable to punishsuch other person or persons as his Majesty in council or the said judi- ment for cial committee shall appoint; and that every such witness who shall perjury. wilfully swear or affirm falsely shall be deemed guilty of perjury, and shall be punished accordingly.

X. That it shall be lawful for the said judicial committee to direct one Committee may or more feigned issue or issues to be tried in any court of common law, direct an issue and either at bar, before a judge of assize, or at the sittings for the trial to try any fact; of issues in London or Middlesex, and either by a special or common jury, in like manner and for the same purpose as is now done by the high court of chancery.

XI. That it shall be in the discretion of the said judicial committee may, in certain to direct that, on the trial of any such issue, the depositions already cases, direct taken of any witness who shall have died, or who shall be incapable to depositions to give oral testimony, shall be received in evidence; and further, that be read at the such deeds, evidences, and writings shall be produced, and that such trial of the facts shall be admitted, as to the said committee shall seem fit.

XII. That it shall be lawful for the said judicial committee to make may make such such and the like orders respecting the admission of persons, whether orders as to the parties or others, to be examined as witnesses upon the trial of any such admission of issues as aforesaid, as the lord high chancellor or the court of chan-evidence as is cery has been used to make respecting the admission of witnesses upon made by the the trial of issues directed by the lord chancellor or the court of court o chancery.

XIII. That it shall be lawful for the said judicial committee to direct and may direct one or more new trial or new trials of any issue, either generally or new trials of upon certain points only; and that in case any witness examined at a issues. former trial of the same issue shall have died, or have, through bodily or mental disease or infirmity, become incapable to repeat his testimony, it shall be lawful for the said committee to direct that parol evidence of the testimony of such witness shall be received.

No. I. 3 & 4 W. 4, c. 41. Powers, &c. of 13 G. 3, c. 63, and 1W.4,c.22, with regard to witnesses ap-

Costs to be in the discretion of the committee.

dicial com-

mittee.

Decrees to be enrolled.

Committee may registrar in same manner as matters are by court of chancery referred to a master.

The king may appoint registrar.

Attendance of witnesses, and production of papers, &c. may be compelled by subpæna.

Time of appealing.

XIV. And whereas by an act passed in the thirteenth year of his late Majesty king George the third, intituled An Act for establishing certain Regulations for the better Management of the Affairs of the East India Company, as well in India as in Europe, and by an act passed in the first year of the reign of his present Majesty, and intituled An Act to enable the Courts of Law to order the Examination of Witnesses upon Interrogotories and otherwise, certain powers are given to certain courts therein mentioned to enforce, and provisions are made for the examination of witexamination of nesses by commission, upon interrogatories and otherwise; be it therefore further enacted, That all the powers and provisions contained in the plied to the ju- two last mentioned acts, or either of them, shall extend to and be exercised by the said judicial committee in all respects as if such committee had been therein named as one of his Majesty's courts of law at Westminster.

> XV. That the costs incurred in the prosecution of any appeal or matter referred to the said judicial committee, and of such issues as the same committee shall under this act direct, shall be paid by such party or parties, person or persons, and be taxed by the aforesaid registrar, or such other person or persons, to be appointed by his Majesty in council or the said judicial committee, and in such manner as the said committee shall direct.

> XVI. That the orders or decrees of his Majesty in council made, in pursuance of any recommendation of the said judicial committee, in any matter of appeal from the judgment or order of any court or judge, shall be enrolled, for safe custody, in such manner, and the same may be inspected and copies thereof taken under such regulations, as his Majesty in council shall direct.

XVII. That it shall be lawful for the said committee to refer any refer matters to matters to be examined and reported on to the aforesaid registrar, or to such other person or persons as shall be appointed by his Majesty in council or by the said judicial committee, in the same manner and for the like purposes as matters are referred by the court of chancery to a master of the said court; and that for the purposes of this act the said registrar and the said person or persons so to be appointed shall have the same powers and authorities as are now possessed by a master in Chancery.

> XVIII. That it shall be lawful for his Majesty, under his sign manual, to appoint any person to be the registrar of the said privy council, as regards the purposes of this act, and to direct what duties shall be performed by the said registrar.

> XIX. That it shall be lawful for the president for the time being of the said privy council to require the attendance of any witnesses, and the production of any deeds, evidences, or writings, by writ to be issued by such president in such and the same form, or as nearly as may be, as that in which a writ of subpoena ad testificandum or of subpoena duces tecum is now issued by his Majesty's court of king's bench at Westminster; and that every person disobeying any such writ so to be issued by the said president shall be considered as in contempt of the said judicial committee, and shall also be liable to such and the penalties and consequences as if such writ had issued out of the said court of king's bench, and may be sued for such penalties in the said court.

> XX. That all appeals to his Majesty in council shall be made within such times respectively within which the same may now be made, where such time shall be fixed by any law or usage, and where no such law or usage shall exist, then within such time as shall be ordered by his Majesty in council; and that, subject to any right subsisting under any charter or constitution of any colony or plantation, it shall be lawful for his Majesty in council to alter any usage as to the time of making appeals, and to make any order respecting the time of appealing to his Majesty in council.

> XXI. That the order or decree of his Majesty in council on any appeal from the order, sentence, or decree of any court of justice in the East

Decrees for courts abroad 'o be carried

Indies, or of any colony, plantation, or other his Majesty's dominions abroad, shall be carried into effect in such manner, and subject to such 3 & 4 W. 4, limitations and conditions, as his Majesty in council shall, on the recommendation of the said judicial committee, direct; and it shall be lawful for his Majesty in council, on such recommendation, by order, to into effect as direct that such court of justice shall carry the same into effect accord- the king in ingly, and thereupon such court of justice shall have the same powers of council shall carrying into effect and enforcing such order or decree as are possessed direct. by or are hereby given to his Majesty in council: Provided always, That nothing in this act contained shall impeach or abridge the powers, Act not to jurisdiction, or authority of his Majesty's privy council as heretofore abridge powers exercised by such council, or in anywise alter the constitution or duties of privy council. of the said privy council, except so far as the same are expressly altered

by this act, and for the purposes aforesaid.

XXII. And whereas various appeals to his Majesty in council from His Majesty the courts of Sudder Dewanny Adawlut at the several presidencies of may direct the Calcutta, Madras, and Bombay in the East Indies, have been admitted East India by the said courts, and the transcripts of the proceedings in appeal have company to been from time to time transmitted under the seal of the said courts, bring on apthrough the united company of merchants in England trading to the peals from the East Indies, to the office of his Majesty's said privy council, but the wannyAdawlut suitors in the causes so appealed have not taken the necessary measures courts to a to bring on the same to a hearing; be it therefore further enacted by hearing. the authority aforesaid, That it shall be lawful for his Majesty in council to give such directions to the said united company and other persons for the purpose of bringing to a hearing before the said committee the several cases appealed or hereafter to be appealed to his Majesty in council from the several courts of Sudder Dewanny Adawlut in the East Indies, and for appointing agents and counsel for the different parties in such appeals, and to make such orders for security and payment of the costs thereof, as his said Majesty in council shall think fit; and thereupon such appeals shall be heard and reported on to his Majesty in council, and shall be by his Majesty in council determined in the same manner, and the judgments, orders, and decrees of his Majesty in council thereon shall be of the same force and effect, as if the same had been brought to a hearing by the direction of the parties appealing in the usual course of proceeding: Provided always, That such such lastmentioned powers shall not extend to any appeals from the said courts of Sudder Dewanny Adawlut other than appeals in which no proceedings have been or shall hereafter be taken in England on either side for a period of two years subsequent to the admission of the appeal by such court of Sudder Dewanny Adawlut.

XXIII. That in any case where any order shall have been made on Orders made any such appeal as last aforesaid, the same shall have full force and on such appeals effect notwithstanding the death of any of the parties interested therein; to have effect but that in all cases where any such appeal may have been withdrawn notwithstandor discontinued, or any compromise made in respect of the matter in ing death of dispute, before the hearing thereof, then the determination of his Ma-parties, &c.

jesty in council in respect of such appeal shall have no effect.

XXIV. That it shall be lawful for his Majesty in council from time to His Majesty time to make any such rules and orders as may be thought fit for the empowered to regulating the mode, form, and time of appeal to be made from the de-make orders. cisions of the said courts of Sudder Dewanny Adawlut, or any other for regulating courts of judicature in India or elsewhere to the eastward of the Cape the mode, &c. of Good Hope (from the decisions of which an appeal lies to his Majesty of such apin council), and in like manner from time to time to make such other peals. regulations for the preventing delays in the making or hearing such appeals, and as to the expences attending the said appeals, and as to the amount or value of the property in respect of which any such appeal may be made.

XXV. And whereas by an act of parliament passed in the fifty- His Majesty seventh year of the reign of his Majesty king George the third, intituled empowered to

No. I. 3 & 4 W. 4, c. 41. appoint one of the barons of the court of exchequer to sit in equity in the absence of the chief baron.

An Act to facilitate the hearing and determining of Suits in Equity in His Majesty's Courts of Exchequer at Westminster, it was enacted that the lord chief baron of the said court for the time being should have power to hear and determine all causes, matters, and things which should be at any time depending in the said court of exchequer as a court of equity, and that if the said lord chief baron of the court of exchequer should by sickness or any other unavoidable cause be prevented from sitting on the equity side of the said court for the purposes in the said act mentioned, then it should and might be lawful for his Majesty and his successors to nominate and appoint from time to time by warrant under the royal sign manual, revocable at pleasure, any one other of the barons of the degree of the coif of the said court for the time being, to hear and determine the causes, matters, and things in the said act mentioned: And whereas by reason of the great increase of business on the common law or plea side of the said court of exchequer the lord chief baron is prevented from giving so much time as heretofore to the sittings on the equity side of the said court, and the sittings on such equity side of the said court being necessarily suspended during the absence of the lord chief baron, great inconvenience is thereby sustained by the suitors and practitioners on the equity side of the said court: And whereas the lord chief baron may by this act become liable to the performance of other additional duties unconnected with the said court of exchequer, and it is desirable that the said court of exchequer should sit as a court of equity without any unnecessary interruption, for the purpose of hearing and determining causes, matters, and things depending in the said court as a court of equity: And whereas doubts have arisen whether or not the above-recited act extends to cases of the lord chief baron being prevented from sitting by the performance of judicial duties elsewhere; be it therefore declared and enacted. That it shall and may be lawful for his Majesty and his successors to nominate and appoint from time to time by warrant under the royal sign manual, revocable at pleasure, any one of the barons of the degree of the coif of the said court for the time being to hear and determine (on such days as the lord chief baron of the said court shall sit on the common law side of the said court during the term, or shall preside at the sittings at nisi prius in London or Middlesex after the term, or shall attend at the judicial committee of his Majesty's privy council under the provisions of this act) all causes, matters, and things which shall at any time be depending in the said court of exchequer as a court of equity.

Two judges of the court of bankruptcy to act for the chief judge of the court of review during his atsaid judicial committee.

XXVI. That during the absence of the chief judge in bankruptcy from the court of review established by virtue of an act passed in the first and second year of his present Majesty, intituled An Act to establish a Court in Bankruptcy, by reason of his attendance at the said judicial committee by virtue of this act, any two judges of the said court shall and may form a court of review in bankruptcy, and shall and may make, tendance at the do, and execute all orders, acts, matters, powers, and things whatsoever which by virtue of the said act the judges of the said court or any three of them are authorized to make, do, or execute, and in all respects whatsoever as if three of the said judges were present, except that nothing herein contained shall authorize any two judges of the said court to hear and determine any matter brought under the review of the said court by way of appeal from the determination or decision of any commissioner or subdivision court appointed by virtue of the said act.

Powers of act ed to this act.

XXVII. That all the clauses and provisions contained in the said act 57 G.3 extend- of parliament which relate to the baron nominated and appointed under that act shall apply and be extended to the baron nominated and appointed under the authority of this act.

Power of en-

XXVIII. That the said judicial committee shall have and enjoy in all forcing decrees, respects such and the same power of punishing contempts and of compelling appearances, and that his Majesty in council shall have and enjoy in all respects such and the same powers of enforcing judgments, decrees, and orders, as are now exercised by the high court of chancery or the court of king's bench, (and both in personam and in rem,) or as are given to any court ecclesiastical by an act of parliament passed in a ses- 3 & 4 W. 4, sion of parliament of the second and third years of the reign of his present Majesty, intituled An Act for enforcing the Process upon Contempts in the Courts Ecclesiastical of England and Ireland; and that all such 2 & 3 W. 4. powers as are given to courts ecclesiastical, if of punishing contempts c. 93. or of compelling appearances, shall be exercised by the said judicial committee, and if of enforcing decrees and orders shall be exercised by his Majesty in council, in such and the same manner as the powers in and by such act of parliament given, and shall be of as much force and effect as if the same had been thereby expressly given to the said committee or to his Majesty in council.

XXIX. That, subject to such orders as his Majesty in council shall Registrar of from time to time make, it shall be lawful for the present registrar of court of admithe high court of Admiralty, if he shall so think fit, either in person or ralty may by deputy, to attend the hearing by the said judicial committee of all attend the said causes and appeals which, but for this act or the said last-mentioned judicial comact, would have been heard by any court or commission which such re-mittee. gistrar was entitled to attend, in person or by deputy, by virtue of his offices of registrar of the high courts of admiralty, delegates, and appeals for prizes, and likewise, subject to any order of his Majesty in council, to transact, perform, and do all acts, matters, and things that shall be found necessary, or have heretofore been done by the said regis-

trar or his deputies in respect of such causes and appeals.

XXX. That two members of his Majesty's privy council who shall Retired judges have held the office of judge in the East Indies or any of his Majesty's attending the dominions beyond the seas, and who, being appointed for that purpose Judicial comby his Majesty, shall attend the sittings of the judicial committee of the mittee to reprivy council, shall severally be entitled to receive over and above any ceive an allowannuity granted to them in respect of having held such office as aforesaid, the sum of four hundred pounds for every year during which they shall so attend as aforesaid, as an indemnity for the expence which they may thereby incur; and such sum of four hundred pounds shall be chargeable upon and paid out of the consolidated fund of the united kingdom of Great Britain and Ireland.

XXXI. Provided always, That nothing herein contained shall be held Nothing herein to impeach or render void any treaty or engagement already entered into shall prevent by or on behalf of his Majesty, or be taken to restrain his Majesty from the King's acacceding to any treaty, with any foreign prince, potentate, or power, in ceding to treawhich treaty it shall be stipulated that any person or persons other than ues appointing the said judicial committee shall hear and finally adjudicate appeals from to hear prize his Majesty's courts of admiralty in causes of prize, but that the judgments, decrees, and orders of such other person or persons so appointed appeals. by treaty shall be of the same force and effect of which they would respectively have been if this act had not been passed.

. PART IV.

CLASS XXV.

COURTS OF EQUITY. (1)

[No. I.] 1 W. IV. c. 36.—An Act for altering and amending the Law regarding Commitments by Courts of Equity for Contempts, and the taking Bills pro Confesso.

[16th July 1830.]

5 G. 2, e. 25.

Recited act 5 G. 2, and so much of lates to courts of equity, and the reading of bills of discovery as evidence, repealed.

Warden of the fleet to keep a the lord chancellor.

Manner of proof persons not appearing

WHEREAS by two several acts, the one passed in the fifth year of the reign of his late Majesty George the second, intituled An Act for making Process in Courts of Equity effectual against Persons who abscord and cannot be served therewith, or refuse to appear; and the other, passed in the forty-fifth year of the reign of his late Majesty king George the 45 G. 3, c. 124. third, intituled An Act to amend an Act passed in the Fourth Year of His present Majesty, intituled 'An Act for preventing inconveniences arising in cases of Merchants, and such other persons as are within the description of the statutes relating to Bankrupts, being entitled to privilege of Parliament and becoming insolvent, and to prevent delay in the entering appearances in actions brought against Persons having Privilege of Parliament; certain provisions were made for entering appearances and taking bills in equity pro confesso: And whereas it is expedient to alter and amend and to consolidate the laws on that subject; and it is also expedient to alter and amend the law relating to commitments by courts of equity for contempts; be it therefore enacted, &c., That the whole of the said recited act of the fifth year of king George the second, and so much of the said recited act of the forty-fifth year of his late Majesty George the third, as 45 G. 3, as re- relates to courts of equity, and the reading of bills of discovery as evidence, shall be and the same are hereby repealed; but so as not to affect any thing done or executed in pursuance thereof respectively; and any suit, matter, or thing now in progress under the authority of the said acts respectively, and not completed, shall or may be completed under the powers of this act; and all the powers of this act shall or may be exercised as well in regard to new suits, commitments, discharges, conveyances, fines, recoveries, matters, or things, as to suits, commitments, discharges, conveyances, fines, recoveries, matters, or things now subsisting or remaining to be made, done, or perfected, whether the powers of the said acts or any of them respectively shall or shall not have been applied thereto.

II. That the warden of the Fleet prison shall keep a register of the names of all persons committed by the courts of equity for contempts, register of per- stating the dates and the grounds of their several commitments, and the sons committed, dates of their respective discharges, and shall, on the twentieth day of and report four January, the twentieth day of April, the twentieth day of July, and the times a year to twentieth day of October, in every year, make a report to the lord chancellor of the names and descriptions of such prisoners in his custody on each of such days respectively, with the causes and dates of

their respective commitments.

III. And whereas sometimes persons have withdrawn themselves ceeding in case beyond the seas, or otherwise absconded, to avoid appearing in courts of equity, or being served with process for that purpose, or being brought

⁽¹⁾ For the acts with respect to conveyances by infants, lunatics, &c. and the powers of the courts of equity in relation thereto, see ante, Part II., Class VI.

into court by habeas corpus, have refused to appear; for remedy of the inconvenience thence ensuing, be it further enacted, That if in any suit 1 W. 4, c. 36. which hath been or hereafter shall be commenced in any court of equity, any defendant against whom any subpæna or other process shall within the usual issue, shall not cause his appearance to be entered upon such process time after subwithin such time and in such manner as according to the rules of the poens or other court the same ought to have been entered in case such process had process has been duly served, and an affidavit or affidavits shall be made to the been issued. satisfaction of such court that such defendant is beyond the seas, or that upon inquiry at his usual place of abode he could not be found so as to be served with such process, and that there is just ground to believe that such defendant is gone out of the realm, or otherwise absconded, to avoid being served with the process of such court; then and in such case the court out of which such process issued, may make an order directing and appointing such defendant to appear at a certain day therein to be named, and a copy of such order shall, within fourteen days after such order made, be inserted in the London Gazette, and published on some Lord's day immediately after Divine Service in the parish church of the parish where such defendant made his usual abode within thirty days next before such his absenting; and also a copy of such order shall, within the time aforesaid, be posted up as after mentioned; (that is to say,) a copy of every such order made in his Majesty's high court of chancery, court of exchequer, or the court of the duchy chamber of Lancaster at Westminster, shall be posted up in some public place at the royal exchange in London; and a copy of every such order made in any of the courts of equity of the counties palatine of Chester, Lancaster, and Durham, or of the great sessions in Wales, shall be posted up at some public place in some market town within the jurisdiction of the court by which such order was made, and nearest to the place where such defendant made his usual abode as aforesaid, such place of abode being also within the jurisdiction of the said court; and if the defendant do not appear within the time limited by such order, or within such further time as the court shall appoint, then on proof made of such publication of such order as aforesaid, the court being satisfied of the truth thereof, may order the plaintiff's bill to be taken pro confesso, and make such decree thereupon as shall be thought just, (1) and may thereupon issue process to compel the performance of such decree, either by an immediate sequestration of the real and personal estate and effects of the party so absenting (if any such can be found), or such part thereof as may be sufficient to satisfy the demands of the plaintiff in the said suit, or by causing possession of the estate or effects demanded by the bill to be delivered to the plaintiff, or otherwise, as the nature of the case shall require; and the said court may likewise order such plaintiff to be paid and satisfied his demands out of the estate or effects so sequestered, according to the true intent and meaning of such decree, such plaintiff first giving sufficient security, in such sum as the court shall think proper, to abide such order touching the restitution of such estate or effects as the court shall think proper to make concerning the same, upon the defendant's appearance to defend such suit, and paying such costs to the plaintiff as the court shall order; but in case such plaintiff shall refuse or neglect to give such security as aforesaid, then the said court shall order the estate or effects so sequestered, or whereof the possession shall be decreed to be delivered, to remain under the direction of the court, either by appointing a receiver thereof, or otherwise, as to such court shall seem meet, until the appearance of the defendant to defend such suit, and his paying such

No. I.

⁽¹⁾ Where a defendant, who is the only defendant, absconds, the bill cannot be taken pro confesso against him under this statute on motion, but the cause must be set down for hearing; Baker v. Keen, 4 Simons, 498.

No. I.

with a copy of the decree.

Persons out of the realm afreturn within be served with a copy; or in case of death, their heirs, &c.

costs to the plaintiff as the said court shall think reasonable, or until 1 W. 4, c. 36. such order shall be made therein as the court shall think just.

IV. Provided always, That if any person against whom any decree Persons in cus-shall be made upon refusal or neglect to enter his appearance, or appoint tody so neglect- a clerk in court or attorney to act on his behalf, shall be in custody or ing, to be served forthcoming, so that he may be served with a copy of such decree, then he shall be served with a copy thereof before any process shall be taken

out to compel the performance thereof.

V. Provided also, That if any decree shall be made in pursuance of this act against any person being out of the realm or absconding, in fected by such manner aforesaid, at the time such decree is pronounced, and such perdecrees, if they son shall, within seven years after the making such decree, return, or become publicly visible, then and in such case he shall likewise be seven years, to served with a copy of such decree within a reasonable time after his return or public appearance shall be known to the plaintiff; and in case any defendant against whom such decree shall be made shall, within seven years after the making such decree, happen to die before his or her return into this realm or appearing openly as aforesaid, or shall, within the time last before mentioned, die in custody before his or her being served with a copy of such decree, then his or her heir, if such defendant shall have any real estate sequestered, or whereof possession shall have been delivered to the plaintiff, and such heir may be found, or if such heir shall be a feme covert, infant, or non compos mentis, the husband, guardian, or committee of such heir respectively, or if the personal estate of such defendant be sequestered, or possession thereof delivered to the plaintiff, then his executor or administrator (if any such there be), may and shall be served with a copy of such decree, within a reasonable time after it shall be known to the plaintiff that the defendant is dead, and who is his heir, executor, or administrator, or where he may be served therewith.

Persons not petitioning a rehearing of the cause within solutely confirmed.

Persons petitioning a rehearing within seven years, and giving security for costs, admitted to answer, and the cause to be heard again.

VI. Provided always, That if any person so served with a copy of such decree shall not, within six months after such service, appear and petition to have the said cause reheard, such decree so made as aforesaid shall stand absolutely confirmed against the person so served with six months, the a copy thereof, his heirs, executors, and administrators, and all persons decree to be ab- claiming or to claim by, from, or under him, or any of them, by virtue of any act done or to be done subsequent to the commencement of such

VII. Provided always, That if any person so served with a copy of such decree shall within six months after such service, or if any person not being so served shall within seven years next after the making such decree, appear in court and petition to be heard with respect to the matter of such decree, and shall pay down or give security for payment of such costs as the court shall think reasonable in that behalf, the person so petitioning, or his representatives, or any person claiming under him by virtue of any act done before the commencement of the suit, may be admitted to answer the bill exhibited, and issue may be joined, and witnesses on both sides examined; and such other proceedings, decree, and execution may be had thereon, as there might have been in case the same party had originally appeared, and the proceedings had then been newly begun, or as if no former decree or proceedings had been in the same cause.

Persons not apmaking such petition, to be absolutely barred.

VIII. Provided always, That if any person against whom such decree pearing within shall be made, his heirs, executors, or administrators, shall not, within seven years, and seven years next after the making of such decree, appear and petition to have the cause reheard, and pay down or give security for payment of such costs as the court shall think reasonable in that behalf, such decree made as aforesaid shall stand absolutely confirmed against the person against whom such decree shall be made, his heirs, executors, and administrators, and against all persons claiming or to claim by, from, or under him, or any of them, by virtue of any act done or to be done subsequent to the commencement of such suit; and at the end of such

seven years it shall and may be lawful for the court to make such further order as shall be just and reasonable according to the circumstances of 1 W. 4, c. 36. the case.

IX. Provided always, That this act shall not extend or be construed Not to affect to extend to warrant or make good any proceeding against any person persons beyond beyond the seas, unless it shall appear to the satisfaction of the court the seas, unless by affidavit or affidavits, before the making of such decree, that such in certain cases person had been in that part of Great Britain called England within two years next before the subpoena in such suit issued against such person.

X. Provided also, That the provisions hereinbefore contained shall As to courts not extend or be construed to extend to warrant or make good any pro- having a limited ceeding against any person in any court of equity having a limited juris-jurisdiction. diction, unless it shall appear to the satisfaction of such court by affidavit, before the making of such decree, that such person had resided within the jurisdiction of such court within one year next before the

subpæna in such suit issued against such person.

XI. That from and after the passing of this act, if any defendant, by Defendants virtue of any writ of habeas corpus or other process issuing out of any brought into court of equity, shall be brought into court, and shall refuse or neglect, court by habeas or, being within the walls of any prison in England under or charged corpus, or in with an attachment or other process of contempt, shall, after fourteen custody, and days' previous notice in writing requiring him to enter an appearance, appearance, refuse or neglect to enter his appearance according to the rules or court may enter method required by the said court, or to appoint a clerk in court or at- it for them. torney of such court to act on his behalf, such court may appoint a clerk in court or attorney of such court to enter an appearance for such defendant, and such proceedings may thereupon be had in the cause as

if the party had actually appeared.

XII. And whereas in many cases persons having privilege of parlia- Appearances ment are named as defendants in suits instituted in courts of equity may be put in against them, either alone or jointly with other persons, for enforcing for defendants against them demands and duties cognizable in courts of equity, and in having privilege some cases such defendants having privileges of parliament have stood of parliament in out to the return of process of sequestration issued against them for courts of equity, enforcing appearance, and such process of sequestration hath not been process of sefound sufficient to enforce such appearance; be it therefore enacted, questration. That from and after the passing of this act, in case any defendant having privilege of parliament shall, upon a return of process of sequestration issued against him for not putting in an appearance to any original or other bill of complaint instituted against him in a court of equity for enforcing discovery and relief, or discovery alone (as the case may be), neglect to appear, that then and in such case such court, upon producing the return of such sequestration in court, may, on the motion or other application of the plaintiff in such cause, appoint a clerk in court to enter an appearance for such defendant so having privilege of parliament, and such proceedings may be thereupon had in the cause as if the party had actually appeared.

XIII. And whereas in many cases it is necessary, on the part of the In default of persons having legal rights against persons having privilege of parlia- answer to bill ment, to proceed by bill in equity against such persons so having privi- in equity against lege of parliament, to obtain from them discovery on oath of facts in-persons having tended to be used or given in evidence in courts of law against the per- privilege of sons making such discovery; and in cases where such persons having shall be taken such privilege as aforesaid shall stand out process of contempt, parties pro confesso. entitled to such discovery against them have not sufficient means of compelling or obtaining the same in all cases; be it therefore enacted, That from and after the passing of this act, when any defendant having privilege of parliament shall have appeared to any bill filed against him seeking a discovery upon oath, or when an appearance shall have been entered for such defendant according to the provisions aforesaid, and such person shall refuse or neglect to put in his answer to such bill

within the time for that purpose allowed by the rules and orders of such 1 W. 4, c. 36. court, than then it shall and may be lawful for the plaintiff in such suit to apply to the court for an order that such bill shall be taken pro confesso against such defendant, and upon such application such court of equity shall make an order that such bill shall be taken pro confesso, unless the defendant shall within eight days after being served with such order shew good cause to the contrary.

Such bill shall be read in evidence as an answer admitting the facts.

XIV. That when and so soon as any such order shall have been pronounced by any such court of equity for taking such bill pro confesso, such hill in equity, or an examined copy thereof, so taken pro confesso, shall be taken and read in any court of law or equity as evidence of the facts and matters and things therein contained, in the same manner as if such facts, matters, and things had been admitted to be true by the answer of the defendant put in to such bill; and such bill so taken pro confesso shall be received and taken in evidence of such and the same facts, and on behalf of such and so many persons, as the answer of the defendant to the said bill could and might have been read and received in evidence of, in case such answer had been put in by the defendant thereto, and had admitted the same facts, matters, and circumstances as in such bill stated and set forth; and in like manner every other bill of discovery taken pro confesso, under any of the provisions of this act, shall or may be taken and read as evidence of the facts and matters and things therein contained, to the extent aforesaid.

Rules for courts of equity.

XV. And for remedying the practice of courts of equity in regard to process of contempt and the taking of bills pro confesso, be it further enacted, That the rules and regulations herein-after provided and contained shall be adopted by the high court of chancery, and shall from henceforth become orders and rules of the said court of chancery, and be observed and enforced in and by the said court; (that is to say,)

1. That when a writ of attachment shall have duly issued against any defendant for contempt in not answering the bill, and such defendant shall not have been taken under such writ, and the sheriff of the county into which such writ shall have issued shall make a return of non est inventus to the same, the court shall, upon motion by or on behalf of the plaintiff, (notice of which shall not be required,) order that the serjeant at arms (1) attending the court do apprehend such defendant and bring him to the bar of the court to answer his contempt, and the same proceedings may thereupon be had as if such order had been made in the manner heretofore in use; provided that before such order shall in any such case be made, the plaintiff applying for the same shall be required to satisfy the court, by the affidavit of the solicitor of the plaintiff, or of his town agent, if the writ of attachment was issued by such town agent, that due diligence (2) was used to ascertain the place where such defendant was at the time of issuing such writ, and in endeavouring to apprehend such defendant under the same, and that the person suing forth such writ verily believed at the time of suing forth the same that such defendant was in the county into which such writ was issued. (3)

⁽¹⁾ On a motion for a sergeant-at-arms under this rule, the affidavit must be made by the clerk who issued the attachment, and the town agent must join in the affidavit, swearing as to his belief; Handfield v. Woolley, 4 Simons, 122.

⁽²⁾ The affidavit need not state the party's belief that due diligence has been used in ascertaining the defendant's residence, and in endeavouring to apprehend him, but it must swear to those facts, and in some way or other satisfy the court of their truth; Wright v. Green, 2 Russ. and M. 93.

⁽³⁾ An affidavit relating to the defendant's residence, and not to the place where he was at the issuing of the attachment, is insufficient; Davis v. Hammond, 5 Simons, 9.

And it is not sufficient in the affidavit to state that at the time of assuing the writ of attachment, the defendant's last and only known place of abode was in the county into which the writ issued; it must state the party's belief that at that time the defendant was in the county into which the writ issued; Handfield v. Wilde, 2 Russ. and M. 91.

- 2. That if any defendant, being in contempt for not answering the bill, shall have been brought to the bar of the court under process for 1 W. 4, c. 36. such contempt, and shall have been committed or remanded back to the prison of the Fleet, the plaintiff may sue forth the writ of habeas corpus in the manner and form heretofore in use in the like cases, provided that there shall be at least twenty-eight days between the day on which such defendant was so committed or remanded back and the return of such writ of habeas corpus; and upon or after the return of such writ of habeas corpus, in case such defendant shall not have put in his answer, the court shall order the bill to be taken pro confesso against such defendant, in the same manner as is now usual in the like cases upon the return of a writ of alias pluries habeas corpus, and such decree shall thereupon be made as shall be thought just; but in regard to any defendant in custody before and at the time of the passing of this act, there shall be at least thirty days between the time of passing this act and the return of such last-mentioned writ of habeas corpus; and it shall not be necessary in the case of any defendant now in custody as aforesaid, who shall have been brought to the bar of the court as aforesaid, to sue forth more than one writ of habeas corpus in order to take the bill pro confesso.
- 3. That the party prosecuting any contempt shall be at liberty, without order, to sue forth the several writs in process of contempt, returnable immediately in case the party in contempt resides or is in London or within twenty miles thereof; and that in other cases, the party prosecuting a contempt shall be at liberty, without order, to sue forth such several writs, returnable in vacation, provided that there be fifteen days between the teste and the return of each of such writs.
- 4. That where a defendant is confined for a misdemeanor, and has been brought before the court upon an habeas corpus, and thereupon has been turned over to the Fleet pro forma, but has been carried back to the prison from whence he came, with his cause, another writ of habeas corpus may issue, directed to the gaoler or keeper of the prison to which he has been carried back, and thereupon the defendant shall be brought into court, and remanded to the prison from whence he came, with his cause, without being turned over again to the Fleet prison, and the bill may be taken pro confesso, in the same manner in all respects as if the defendant had been all along in the custody of the warden of the Fleet.
- 5. That if the defendant, under process of contempt for not appearing or not answering, be in actual custody, and shall not have been sooner brought to the bar of the court under process to answer his contempt, the plaintiff, if the contempt be not sooner cleared, shall bring the defendant by an habeas corpus to the bar of the court within thirty days from the time of his being actually in custody, or detained (being already in custody) upon process of contempt, and if the last day of such thirty days shall happen out of term, then within the four first days of the ensuing term; and where the defendant is in custody of the serjeant at arms, or of the messenger, upon an attachment or other process, the plaintiff shall, within ten days after his being taken into such custody, or if the last of such ten days shall happen out of term then within the first four days of the next ensuing term, cause the defendant to be brought to the bar of the court; and in case any such defendant shall not be brought to the bar of the court within the respective times aforesaid, the sheriff, gaoler or keeper, serjeant at arms or messenger, in whose custody he shall be, shall thereupon discharge him out of custody without payment by him of the costs of contempt, which shall be payable by the party on whose behalf the process issued; and this rule shall apply to every defendant in custody before and at the time of passing of this act, who shall not have been

No. I. 1 W. 4, c. 36.

brought to the bar of the court; but the thirty days allowed in the first above mentioned case, and the ten days allowed in the second above mentioned case, shall be reckoned from the first day of next term.

6. That if a defendant, upon being brought before the court upon an habeas corpus, shall make oath (which shall be administered to him by the registrar, and he shall be examined in open court,) that he is unable by reason of poverty to employ a solicitor to put in his answer, the court shall thereupon refer it to a master in rotation to inquire into the truth of that allegation, and to report thereon to the court forthwith, and thereupon the court may make such order as upon other reports of the like nature under the provisions herein-

after contained. (1)

7. That on the thirtieth day of January, the thirtieth day of April, the thirtieth day of July, and the thirtieth day of October, in every year, or if any of those days happen on a Sunday, then on the following day, one of the masters of the court of chancery, to be named by the court, shall visit the Fleet prison, and examine the prisoners confined there for contempt, and shall report their opinion on their respective cases to the court; and thereupon it shall be lawful for the court to order, if it shall see fit, that the costs of the contempt of any such prisoner shall be paid out of the interest and dividends arising from the several government or parliamentary securities standing in the name of the accountant general of the said court of chancery, intituled "Account of Monies placed out "for the Benefit and better Security of the Suitors of the High "Court of Chancery," and "Account of Securities purchased with "Surplus Interest arising from Securities carried to an Account of "Monies placed out for the Benefit and better Security of the "Suitors of the High Court of Chancery," or out of any cash standing to either of such accounts, or to any other account which is now or hereafter may be standing to the credit of the suitors of the said court of chancery, (after and subject to the payment of all charges which by any act heretofore passed are directed to be paid thereout,) and to assign a solicitor and counsel to such prisoner, for putting in his answer and defending him in formal pauperis, and to direct any such prisoner, having previously done such acts as the court shall direct, to be discharged out of custody; provided that if any such defendant become entitled to any funds out of such cause, the same shall be applied, under the direction of said court, in the first instance to the reimbursement of the suitors' fund.

8. That it shall be lawful for the master visiting the Fleet, or to whom the case of a prisoner shall be referred by the court itself, to examine the prisoner, and all other persons whom he may think it proper to examine, upon oath, and to administer an oath or oaths to any

⁽¹⁾ A reference having been made under this rule, neither the defendant nor any other person on her behalf appeared before the master, though she had been personally summoned. The master proceeded exparts with the inquiry, and reported that the defendant did not appear to be able, by reason of her poverty, to employ a solicitor to put in her answer. The court refused to order the bill to be taken pro confesso, but referred it back to the master to review his report, and ordered the warden of the Fleet to produce the defendant before the master at such time and place as the master should appoint, and that the inquiry should be proceeded with in defendant's presence; Atkinson v. Flint, 5 Simons, 77. A defendant who was in contempt for not answering the bill, on being brought to the bar of the court under this rule, deposed that she was unable, by reason of poverty, to employ a solicitor to put in her answer, upon which the usual reference was made to the master. The defendant refused to make any statement to the master as to the subject of the reference, and the master proceeding ex parts, which being certified by him in the usual way, the court ordered proceedings to be taken under the second rule of the act, and she being brought to the bar accordingly, and the record of the bill being read, and she refusing to put in her answer, it was ordered that the bill be taken pro confesso against her; Williams v. Parkinson, 5 Simons, 74.

such prisoner and other persons accordingly; and to cause any officers, clerks, and ministers of any court of law or equity to bring 1 W. 4, c. 36. and produce upon oath before him any records, orders, books, papers, or other writings belonging to the said courts, or to any of the officers within the same as such officers.

- 9. That if it shall appear to the satisfaction of the court, that any such prisoner is an idiot, lunatic, or of unsound mind, although no commission has issued, the court shall appoint a guardian to put in his answer and discharge the defendant, providing for the costs in any of the ways pointed out by this act, as shall seem just; and if the court shall see fit, the defence may be made by such gnardian is
- forma pauperis. 10. That where the defendant has been brought to the bar of the court for his contempt in not answering, and refuses or neglects to answer, (not being idiot, lunatic, or of unsound mind,) the court may, upon motion or petition, of which due notice shall be given personally to the defendant, authorize the plaintiff to amend his bill, without such amendment operating as a discharge of the contempt, or rendering it necessary to proceed with the process of contempt de novo; but after such amendment the plaintiff may proceed to take the amended bill pro confesso, in the same manner as if it had not been amended: Provided nevertheless, that if the defendant shall be desirous to answer such amended bill, the court shall allow him such time as shall seem just for that purpose; but if he shall not within the time allowed by the court put in a sufficient answer to the amended bill, the process for taking the bill pro confesso may be resumed and carried on.
- 11. That in every case where the defendant has been brought to the bar of the court to answer his contempt for not answering, and shall refuse or neglect to answer within the next twenty-one days, the plaintiff shall be at liberty, with the leave of the court, upon ten days' previous notice to the defendant after the expiration of such twenty-one days, unless good cause be shown to the contrary, instead of proceeding to have the bill taken pro confesso, to put in such an answer to the bill as herein-after is mentioned, in the name of the defendant, without oath or signature; and thereupon the suit shall proceed in the same manner as if such answer were really the answer of the defendant, with which the plaintiff was satisfied; and the costs of the contempt and of putting in such answer may be provided for in like manner as if the defendant himself had put in such answer; and such answer, besides the formal parts thereof, shall be to the following effect; that the defendant leaves the plaintiff to make such proofs of the several matters in the bill alleged as he shall be able or be advised, and submits his interests to the court.
- 12. That in any case where, upon the application of the plaintiff, the court shall be satisfied that justice cannot be done to the plaintiff without an answer to the bill or to the interrogatories from the defendant himself, it shall be lawful for the court to order the defendant to remain in custody until answer or further order, but without prejudice to the plaintiff's availing himself of any of the provisions of this act.
- 13. That where the defendant is in contempt for not appearing or not answering, and in actual custody under process for such contempt, or being already in custody shall be detained by an attachment for such contempt, and shall not, where the contempt is for not appearing, enter an appearance within twenty-one days after he is lodged in gaol or prison, or the attachment is lodged against him, (he being already in prison,) as the case may be, or, where the contempt is for not answering, put in an answer within two calendar months after he is lodged in gaol or prison, or the attachment is lodged against him, he being already in prison, the plaintiff shall (as the case may be), within fourteen days after the period computed from the expi-

No.I. 1.W. 4, c.36. ration of such twenty-one days within which he may by the provisions of this act be able to enter such appearance, cause an appearance to be entered for the defendant under the powers of this act, and shall at the expiration of such two calendar months proceed to take the bill pro confesso, and shall accordingly obtain an order for taking the same pro confesso within six weeks after the period computed from the expiration of such two calendar months within which he may be able to take the same pro confesso; or in default of so doing in either of such cases, the defendant shall, upon application to the court, be entitled to be discharged out of custody without paying any of the costs of the contempt, unless the court shall, under the power herein-before contained, see good cause to remand and detain the defendant in custody, and this rule shall apply to every defendant in custody before and at the time of the passing of this act, who shall not have entered his appearance, and for whom an appearance shall not have been entered, or shall not have answered the bill, and the bill shall not have been taken pro confesso, but the twenty-one days and two calendar months respectively to be reckoned from the first day of next term, and the other periods to be altered accordingly in computation; but nothing in this act shall prevent any plaintiff from proceeding to take his bill pro confesso, according to the practice existing before the passing of this act, where at the time of passing of this act his proceedings shall be so far advanced that the powers of this act would not enable him to accelerate the period for taking his bill pro confesso.

14. That where a defendant is in custody for contempt in not answering, and shall be able to put in his answer by borrowing or obtaining a copy of the bill, without taking an office copy of the bill, he shall not be compellable to take any such copy, but the clerk in court may (if he think the defendant is of sufficient ability to pay for an office copy) require him, before the answer is filed, to make an affidavit denying his ability in consequence of poverty to pay for an

office copy of the bill.

15. That when any person shall have been directed by any decree or order to execute any deed or other instrument, or make a surrender or transfer, or to levy a fine or suffer a recovery, and shall have refused or neglected to execute, make, or transfer, or levy or suffer the same, and shall have been committed to prison under process for such contempt, or, being confined in prison for any other cause, shall have been charged with or detained under process for such contempt, and shall remain in such prison, the court may, upon motion or petition, and upon affidavit that such person has, after the expiration of two calendar months from the time of his being committed under, or charged with, or detained under such process, again refuse to execute such deed or instrument, or make such surrender or transfer, or levy or suffer such fine or recovery, order or appoint one of the masters in ordinary, or if the act is to be done out of London, then, if necessary, one of the masters extraordinary, to execute such deed or other instrument, or to make such surrender or transfer, for and in the name of such person, and to levy such fine or suffer such recovery in his name, and to do all acts necessary to give validity and operation to such fine and recovery, and to lead or declare the uses thereof; and the execution of the said deed or other instrument, and the surrender or transfer made by the said master, and the fine or recovery levied or suffered by him, shall in all respects have the same force and validity as if the same had been executed or made, levied or suffered, by the party himself; and within ten days after the execution or making of any such deed or other instrument, or surrender or transfer, or levying or suffering such fine or recovery, notice thereof shall be given by the adverse solicitor to the party in whose name the same is executed or made; and such party, as soon as the deed or other instrument, or surrender, transfer, fine, or recovery shall be executed, made, levied, or suffered, shall be considered as having 1 W. 4, c. 36. cleared his contempt, except as far as regards the payment of the costs of the contempt, and shall be entitled to be discharged therefrom under any of the provisions of this act applicable to his case; and the court shall make such order as shall be just, touching the payment of the costs of or attending any such deed, surrender, instrument, transfer, fine, or recovery.

No. I.

16. That where a person shall be committed for a contempt in not delivering to any person or persons, or depositing in court or elsewhere, as by any order may be directed, books, papers, or any other articles or things, any sequestrator or sequestrators appointed under any commission of sequestration shall have the same power to seize and take such books, papers, writings, or other articles or things, being in the custody or power of the person against whom the sequestration issues, as they would have over his own property; and thereupon such articles or things so seized and taken shall be dealt with by the court as shall be just; and after such seizure it shall be lawful for the court, upon the application of the prisoner, or of any other person in the cause or matter, or upon any report to be made in pursuance of this act, to make such order for the discharge of the prisoner, upon such terms, and, if it shall see fit, making any costs in the cause, as to the court shall seem proper.

17. That in any other case of a commitment for contempt, not herein specially provided for, the court may upon any such application as last aforesaid, or upon any such report as aforesaid, make such order for the discharge of the prisoner, upon any such terms, and making, if the court shall see fit, any costs in the cause, as to the

court shall seem proper.

18. That where any person committed for a contempt shall be entitled to his discharge upon applying to the court, but shall omit to make such application, the court may upon any such report as aforesaid compulsorily discharge such person from the contempt and from custody, and pay the costs of the contempt out of any funds belonging to him over which the court may have power, or make them costs in the cause as against him, or may discharge him from the contempt, but leave him in custody for the costs, which may be cleared, if he be insolvent, under the provisions herein-after contained in that behalf.

19. That where any party obstinately retains possession of lands or other real property after a writ of execution of a decree or an order for delivery of possession has been duly served and demand of possession made, and upon an affidavit of such service of the writ of execution, and of such demand made thereunder, and a refusal to comply therewith on the part of the person against whom the writ issued, the party issuing it shall be at liberty, upon an affidavit of service of the writ of execution and demand of possession and refusal, to obtain the usual order of course for the writ of assistance to issue, and that the intermediate writs of attachment and injunction further commanding the party to deliver possession, or any other writ, shall be unnecessary.

20. That in order to relieve persons in prison from the expence of a master's attendance to take affidavits or answers, the lord high chancellor do, by one or more commission or commissions under the great seal, upon or in respect of which no fee shall be payable, nominate and appoint the warden, keeper, or other chief officer of every prison within the city of London, or the bills of mortality, and their deputies, to be masters extraordinary of the high court of chancery, for the purpose of taking and receiving such affidavits and answers as any person or persons within any such prison shall be willing or desirous to make, and for no other purpose; and the person so taking such affidavit or answer shall in respect thereof No. I. 1 W. 4, c. 36. be entitled to receive a fee of one shilling, and no more; and the court of exchequer shall in like manner appoint such persons as aforesaid a commissioner or commissioners of the said court, for the purposes aforesaid, and no others, and with the right to the like fee, and no more; and in every case of an answer being sworn in prison, a clerk of a master or baron (as the case may require) shall attend to take and carry back to and from the prison the answer, and shall in respect thereof be entitled to a fee of three shillings, and no more.

Discharge may extend to process for contempt in non-payment of money, and to costs incurred by creditor, but subject to taxation.

XVI. That the discharge of any prisoner adjudicated upon under the authority of an act passed in the seventh year of his present Majesty's reign, intituled An Act to amend and consolidate the Laws for the Relief of Insolvent Debtors in England, or any other act which may hereafter be passed for the relief of insolvent debtors, shall and may extend to all process issuing from any court of equity for any contempt of such court for nonpayment of money, or of costs, charges, or expences in any such court; and that in such case, the said discharge shall be deemed to extend to all costs which such prisoner shall be liable to pay in consequence or by reason of such contempt, or on purging the same; and that every discharge, so adjudicated as aforesaid, as to any debt or damages of any creditor of such prisoner, shall be deemed to extend also to all costs incurred by such creditor, before the filing of such prisoner's schedule, in any action or suit brought by such creditor against such prisoner for the purpose, for the recovery of the same; and that all persons as to whose demands for any such costs, money, or expences any such person shall be so adjudged to be discharged, shall be deemed and taken to be creditors of such prisoner in respect thereof, and entitled to the benefits of all the provisions made for creditors by the said act, or any future act; subject nevertheless to such ascertaining of the amount of the said demands as may be had by taxation or otherwise, and to such examination thereof as is in the said last-mentioned act, or as shall be in any future act provided in respect of all claim to a dividend of such insolvent's estate and effects.

When process of contempt is for nonperformance of an act.

XVII. That where the process of contempt is for the nonperformance of an act, for example, the not answering the plaintiff's bill, and the bill in equity to which the insolvent is a party is taken pro confesso, and he has not paid the costs of the contempt, or the insolvent has fully answered the plaintiff 's bill or interrogatories, or otherwise cleared his contempt, except as far as regards the payment of the costs, or it has become in event unnecessary for him to do the act for the nonperformance of which he was committed or attached, the court of equity in which the suit is depending shall upon the application of the party in contempt, discharge him from the same, except as to the costs thereof, for which he shall remain in custody, and such costs shall be deemed within the provision lastly hereinbefore contained, and he shall be dischargeable therefrom, and from the process of contempt, in like manner as if the process of contempt were for nonpayment of money or costs; provided that this order or regulation shall not weaken any of the other powers by this act given, nor shall anything herein contained lessen the operation of the said act for the relief of insolvent debtors.

Powers given by this act to the court of chancery to extend to the lord keeper.

XVIII. That the powers and authorities given by this act to the court of chancery, or to the lord chancellor of Great Britain, shall and may be exercised as well by such lord chancellor as by (and they are hereby given to) the lord keeper or commissioners of the great seal of Great Britain for the time being, and to the master of the rolls and vice chancellor respectively; but the reports of the warden of the Fleet, and of the masters visiting there, shall be made to the lord chancellor, lord keeper, or lords commissioners only, who alone are to make orders thereupon for discharge or relief of prisoners.

Certain rules to XIX. That such of the rules herein-before directed to be adopted by be adopted by the court of chancery as are numbered from five to twenty, both inclu-

urt of exchequer.

sive, shall be adopted by the court of exchequer, which court shall, for

1 W. 4, c. 36. the purposes of this act, draw upon the suitor's fund of that court. XX. That the powers and authorities contained in such last-mentioned \sim rules, and given by this act to the lord chancellor, shall and may be Powers conexercised in like manner by, and are hereby given to his Majesty's tained in such court of exchequer, and may be exercised by the said court, or by the last-mentioned lord chief baron thereof; but such periodical visits only to be made to rules extended the Fleet prison, in regard to prisoners for contempt of the said court, to the court of as the lord chief baron shall direct, and by such officer or officers of the exchequer. court as he shall nominate.

XXI. That wherever this act, in describing or referring to any per- Rule for the son, or any conveyance, transfer, matter, or thing, uses the word im-interpretation porting the singular number or the masculine gender only, the same of this act. shall be understood to include and shall be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and several conveyances, transfers, matters, or things respectively, as well as one conveyance, transfer, matter, or thing respectively, unless there be something in the subject or context repugnant to such construction.

[No. II.] 11 G. IV. & 1 W. IV. c. 60.—An Act for amending the Laws respecting Conveyances and Transfers of Estates and Funds vested in Trustees and Mortgagees; and for enabling Courts of Equity to give effect to their Decrees and Orders in certain cases.

[See this act, ante, Part II., Class I., p. 93.]

[No. III.] 2 W. IV. c. 33.—An Act to effectuate the Service of Process issuing from the Courts of Chancery and Exchequer in England and Ireland respectively (1). [23rd May 1832.]

WHEREAS great inconvenience and delays of justice arise from the defect of jurisdiction in courts of equity to effectuate the service of their process in such parts of the united kingdom of Great Britain and Ireland as are not within the jurisdiction of the said respective courts; for remedy whereof be it enacted, &c., That from and after the passing Courts of chanof this act it shall and may be lawful for the courts of chancery and of cery and exexchequer in England respectively, if they shall so think fit, upon spe-chequer of cial motion of the complainant or complainants in any suit which has England, in been or shall be instituted in such courts respectively, concerning lands suits concernor tenements or hereditaments situate or being within that part of the inglands, &c. united kingdom called England or Wales, to order and direct that ser- in England emvice in any part of the united kingdom of Great Britain and Ireland and powered to diin the Isle of Man respectively, of any subporna or subpornas, (2) letter rect proce missive or letters missive, and of all subsequent process to be had other parts of thereon, upon any defendant or defendants in such suit then residing in the united kingsuch part of the said united kingdom or Isle of Man in which he, she, dom. or they shall be so served, shall be deemed good service of or be made upon such defendant or defendants, upon such terms and in such man-

⁽¹⁾ See 4 & 5 W. 4, c. 82, amending and extending this act, post.

The above statute, and the 4 and 5 W. 4, c. 82, extend to Scotland; Cameron v. Cameron, 2 Mylne and K., 289.

⁽²⁾ Where a defendant resident in Scotland has been served with a subpoena under this act, personal notice must be given to him of a motion for any subsequent process; Hasluck v. Stewart. 6 Simons, 321.

ner and at such time as to such courts respectively shall seem reason-2 W. 4, c. 33. able; and that thereupon it shall and may be lawful for such courts respectively to proceed upon such service so made as aforesaid as fully and as effectually as if the same had been duly made within the jurisdictions of such courts respectively.

Courts of chanin suits concerning lands, &c. in Ireland, empowered to direct process to be served in other parts of dom.

II. That it shall and may be lawful for the courts of chancery and of cery and exche-exchequer in Ireland respectively, if they shall so think fit, upon special quer of Ireland, motion of the complainant or complainants in any suit which has been or shall be instituted in such courts respectively, concerning lands or tenements or hereditaments situate or being within that part of the united kingdom called Ireland, to order and direct that service in any part of the united kingdom of Great Britain and Ireland and in the Isle of Man respectively, of any subpœna or subpœnas, letter missive or letters missive, and of all subsequent process to be had thereupon, upon the united king- any defendant or defendants in such suit then residing in such part of the said united kingdom or Isle of Man in which he, she, or they shall be so served, shall be deemed good service of or be made upon such defendant or defendants, upon such terms and in such manner and at such time as to such courts respectively shall seem reasonable; and that thereupon it shall and may be lawful for such courts respectively to proceed upon such service so made as aforesaid as fully and as effectually as if the same had been duly made within the jurisdiction of such courts respectively.

With subpoena served under this act a copy of the prayer of the bill to be served; and no process of contempt to be entered without special order.

III. Provided always, That along with such subpæna or letter missive served under any such order as aforesaid of the said courts of chancery and of exchequer of England and of Ireland respectively, a copy of the prayer of such complainant's bill shall be served upon every such defendant; and provided also, That no process of contempt shall be entered upon any such proceedings as herein-before mentioned, nor any decree made absolute in any of the said courts in England or Ireland respectively, without the special order of such court, upon special motion made for such purpose: Provided also, That nothing in this act shall be held to make it compulsory upon the complainant or complainants in any suit in any of the said respective courts to serve with process or bring before such courts respectively any party or parties, person or persons, further or otherwise than such complainant or complainants are now by law or the practice of such courts respectively required to do.

[No. IV.] 2 W. IV. c. 58.—An Act to extend the Provisions of an Act of the First Year of the Reign of His present Majesty, for altering and amending the Law regarding Commitments by Courts of Equity for Contempts, and the taking Bills pro confesso; and to explain certain parts [23d June 1832.] thereof.

7 G. 4, c. 57.

WHEREAS by an act passed in the first year of the reign of his present Majesty, intituled An Act for altering and amending the Law regarding Commitments by Courts of Equity for Contempts, and the taking Bills pro Confesso, it is amongst other things enacted, that the discharge of any prisoner adjudicated upon under the authority of an act passed in the seventh year of his present Majesty's reign, intituled An Act to amend and consolidate the Laws for the Relief of Insolvent Debtors in England, or any other act which may hereafter be passed for the relief of insolvent debtors, shall and may extend to all process issuing from any court of equity for any contempt of such court for nonpayment of money, or of costs, charges, or expences in any such court; and that in such case the said discharge shall be deemed to extend to all costs which such prisoner shall be liable to pay in consequence or by reason of such contempt, or on purging the same; and that every discharge so adjudicated as aforesaid, as to any debt or damages of any creditor of

such prisoner, shall be deemed to extend also to all costs incurred by such creditor before the filing of such prisoner's schedule, in any action 2 W. 4, c. 58. or suit brought by such creditor against such prisoner for the purpose, for the recovery of the same; and that all persons as to whose demands for any such costs, money, or expences any such person shall be so adjudged to be discharged, shall be deemed and taken to be the creditors of such prisoner in respect thereof, and entitled to the benefits of all the provisions made for creditors by the said act or any future act, subject nevertheless to such ascertaining of the amount of the said demands as may be had by taxation or otherwise, and to such examination thereof as is in the said last-mentioned act or as shall be in any future act provided in respect of all claim to a dividend of such insolvent's estate and effects: And whereas it is expedient to extend the provisions of the said act passed in the first year of the reign of his present Majesty; be it enacted, &c., That in all cases of contempt (1) other than and besides Courts of chanthose provided for by the last-mentioned act, where any person or per- cery and exchesons are or is or shall at any time hereafter be in prison under or by querrespecreason of any commitment or attachment directed by or issued out of tively emthe court of chancery or his Majesty's court of exchequer, the court of powered to disequity by which such commitment shall have been directed or out of charge persons which such attachment shall have issued shall (upon the application of contempt; the persons or person against whom such commitment or attachment hath been directed or issued) have the power, if it shall so think fit, to discharge such persons or person from their, his, or her contempt, ex-except as to the cept as to the costs thereof, for which costs they, he, or she shall remain costs thereof. in custody; and such costs shall be deemed within the herein-before recited provisions of the said last-mentioned act, and they, he, or she shall be discharged therefrom and from the process of contempt in like manner as is in the said last-mentioned act provided for in cases of process of contempt for non-payment of money or costs; provided that this act shall not weaken any of the powers by the said act passed in the first year of his present Majesty given, and that nothing herein contained shall lessen the operations of the said act for the relief of insolvent debtors.

[No. V.] 2 & 3 W. IV. c. 111.—An Act to abolish certain Sinecure Offices connected with the Court of Chancery, and to make Provision for the Lord High Chancellor on his Retirement from Office. [15th August, 1832.]

WHEREAS it is expedient that the offices herein-after mentioned should be abolished as soon as provision can be made for the due performance of the duties thereunto belonging: Be it enacted, &c. That Certain Offices the offices of keeper or clerk of his Majesty's hanaper, the patentee of abolished. the subpæna office, the registrar of affidavits, the clerk of the crown in chancery, the clerk of the patents, the clerk of the custodies of lunatics and idiots, the prothonotary of the court of chancery, the chaff wax, the sealer, the clerk of the presentations, the clerk of inrollments in bankruptcy, the clerk of dispensations and faculties, and the patentee for the execution of the laws and statutes concerning bankrupts, shall utterly cease and determine from and after the twentieth day of August one thousand eight hundred and thirty-three.

II. Provided nevertheless, and it is hereby further enacted by the au-Offices not to thority aforesaid, That nothing in this act contained shall be construed determine unto determine any of the aforesaid offices now holden, in possession or til removal of persons appointed before 1st. June.

⁽¹⁾ An order for the discharge of a prisoner from his contempt under this statute may be made on motion, supported by the certificate of the deputy warten of the Fleet; Hodder v. Harries, 5 Simons, 44.

No. V. 2 & 3 W. 4, c. 111.

Annuity of 5,000l. to lord chancellor on resignation of office.

58 G. 3. c 80.

reversion, by any person appointed thereto on or before the first day of June last, until the decease or resignation of such person.

III. And whereas by reason of the abolition of the said offices the lord high chancellor or lord keeper of the great seal for the time being will be deprived of the patronage and gift of the said offices, which does of right belong to and has been exercised by him; and it is therefore just and equitable that more ample provision should be made for the lord high chancellor or lord keeper of the great seal on his retirement from office; be it therefore enacted, That it shall be lawful for his Majesty, his heirs and successors, by any letters patent under the great seal of Great Britain, to give and grant, unto any person executing the office of lord high chancellor of Great Britain for the time being, or the office of keeper of the great seal of Great Britain, an annuity or yearly sum of money not exceeding five thousand pounds of lawful money of Great Britain, to commence and take effect immediately from and after the period whenever the person to whom such annuity or yearly sum of money shall be granted shall resign the said office of lord chancellor, or the office of keeper of the great seal of Great Britain, or be removed from the same respectively, and to continue from thenceforth for and during the natural life of the person to whom the same shall be granted as aforesaid; and such annuity or yearly rent or sum shall be issued and payable out of and be charged and chargeable upon the consolidated fund of the united kingdom of Great Britain and Ireland, after paying, or reserving sufficient to pay, all such sum or sums of money as have been directed under any former act or acts to be paid out of the same; and the said annuity or yearly rent or sum shall from time to time be paid and payable quarterly, free and clear of all taxes and deductions whatsoever, at the four usual days of payment in the year, that is to say, the fifth day of January, the fifth day of April, the fifth day of July, and the tenth day of October, in each year, by even and equal portions, the first payment to be made on such of the said days as shall next happen after such resignation as aforesaid of the said office: Provided always, That it shall be lawful for his Majesty, his heirs and successors, in and by the said letters patent, if he or they shall think fit, to limit the duration and payment of any such annuity to be granted to any person executing the said office of lord high chancellor, or the office of keeper of the great seal of Great Britain, or any part of such annuity, to such periods of time during the natural life of such person in which he shall not execute the said office of lord high chancellor, or the keeper of the great seal of Great Britain, or any other office of profit under his Majesty, his heirs or successors, so as such annuity to be granted as aforesaid, together with the salary and profits of such other office, shall together not exceed in the whole the sum of five thousand pounds; any thing contained in any act or acts to the contrary hereof in anywise notwithstanding.

[No. VI.] 2 & 3 W. 4, c. 122.—An Act for making Provision for the Lord High Chancellor of England in lieu of Fees heretofore received by him. [16th August 1832.]

WHEREAS by an act made and passed in the fifty-eighth year of the reign of king George the third, intituled An Act to provide additional Salaries to the present Clerks in the Report Office of the High Court of Chancery, and to provide additional Clerks for the said Office, and for making further Provision for the Clerks in the said Office, and of the several acts therein mentioned or referred to, divers sums of money have been, by virtue of several orders of the said court of chancery, from time to time taken out of the common and general cash belonging to the suitors of the high court of chancery which lay dead and unemployed in the bank of England, and have been placed out in the name of the accountant general of the said court on government or parlia-

mentary securities, and such government or parliamentary securities have been in pursuance of the said acts carried to an account intituled 2 & 3 W. 4, "Account of Monies placed out for the benefit and better Security of the Suitors of the High Court of Chancery," and out of the dividends and interest of the securities purchased in pursuance of the said several acts several annual sums and salaries to the master of the report office, and to the registrars and entering clerks, and to their clerks, and several other payments thereby directed to be made and paid, have been from time to time made and paid; and the surplus interest and annual produce arising from the said securities beyond what was sufficient to answer the several payments thereby and by the several other acts therein mentioned or referred to directed to be made and paid, and also the interest produced from the securities purchased with such surplus interest and annual produce, have been from time to time, in pursuance of the said last-mentioned act, laid out in the purchase of government or parliamentary securities in the name of the accountant general of the said court, and placed to the credit of an account intituled "Account of Securities purchased with surplus Interest arising from Securities carried to an Account of Monies placed out for the benefit and better Security of the Suitors of the High Court of Chancery:" And whereas by an act passed in the fifty-third year of the reign of his late Majesty 53 G. 3. c. 24. king George the third, intituled An Act to facilitate the Administration of Justice, it is enacted, That out of the common and general cash belonging to the suitors of the court of chancery, which did then or should thereafter lie dead and unemployed in the bank of England, the said court was empowered from time to time to order any sum not exceeding sixty thousand pounds to be placed out, in one sum or in parcels, in the name of the accountant general of the said court, on government or parliamentary securities, and that such securities should be carried to the said account intituled account of monies placed out for the benefit and better security of the suitors of the high court of chancery, and should be made part of the same account; and out of the interest and dividends of all or any of the securities purchased out of the said common and general cash, in pursuance of the several former acts therein mentioned or referred to, purchased and to be purchased in pursuance of the now-reciting act, there should be paid, by the governor and company of the bank of England, by virtue of any orders to be made by the said court for that purpose, amongst other yearly payments thereby directed, the net yearly sum of five thousand pounds to the vice chancellor of England for the time being; and it was thereby further enacted, That the lord chancellor, lord keeper, or lords commissioners of the great seal for the time being, should, from the time a vice chancellor should be appointed, pursuant to the now-reciting act, out of the fees and emoluments belonging to and received in respect of the custody of the great seal or otherwise, pay or cause to be paid to the governor and company of the bank of England the net yearly sum of two thousand five hundred pounds, by quarterly payments; and that all such sums of money, when so paid, should be carried to the account of the interest and dividends of the several securities standing in the name of the accountant general therein-before mentioned or referred to, and be applied to all the purposes to which such interest and dividends then were or might be applicable: And whereas the yearly sum of five thousand pounds is now paid and payable to the lord chancellor, lord keeper or lords commissioners of the great seal, for the time being, at his Majesty's exchequer, and it is expedient that such yearly payment should from and after the fifth day of January last cease and be no longer payable: And whereas the clerk of the crown, the clerk of the letters patent, the secretary of fines, and the purse bearer to the lord chancellor, lord keeper and lords commissioners of the great seal, for the time being, or their several and respective deputies, clerks, or agents, have from time to time and do now receive various fees and emoluments which are due and of right payable for business done and

No. VI. c. 122.

transacted by them in or by virtue of their respective offices, to and for

No. VI. c. 122.

2 & 3 W. 4, the use and on the account of the lord high chancellor, lord keeper and lords commissioners of the great seal of Great Britain, for the time being, which mode of remumeration is very uncertain, as well as derogatory to the dignity of such office, and it is expedient that a more certain and adequate provision should be made for the ford chancellor, lord keeper or lords commissioners, in lieu and stead of such fees, and that the annual payment of two thousand five hundred pounds, so by the last-recited act directed to be made and paid by the lord chancellor, lord keeper or lords commissioners of the great seal, for the time being, in the manner and for the purposes thereby directed and provided, should, from and after the fifth day of January one thousand eight hundred and thirty-two, cease and be no longer payable, and that the annual sum of five thousand pounds thereby directed to be paid to the vice chancellor of England out of the interest and dividends of the several stocks, funds, and securities standing in the name of the accountant general of the court of chancery to the two several accounts first hereinbefore mentioned, should, from and after the fifth day of April one thousand eight hundred and thirty-two, be no longer paid or payable out of such interest and dividends: And whereas it is expedient that a further sum, out of the common and general cash belonging to the suitors of the said court, now lying dead and unemployed in the bank of England, should be laid out and invested in the public stocks, funds, and securities, and carried to the account herein-after mentioned, the better to answer and satisfy, by and out of the dividends and interest thereof, the several annual payments hereby and by any and every former act and acts of parliament now or hereafter to be subsisting and payable thereout; be it therefore enacted, &c., That out of the common and general cash belonging to the suitors of the court of fund for benefit chancery, which now lies or shall hereafter lie dead and unemployed in of the suitors of the bank of England, a sum not exceeding the sum of one hundred and fifty thousand pounds shall and may, by virtue of any order or orders of the said court to be made for that purpose, from time to time be placed out, in one entire sum or in parcels, in the name of the accountant general of the said court, according to the general rules and orders of the said court, on such government or parliamentary securities as by such order or orders shall be directed; and such securities shall be carried to the said first-mentioned account intituled account of monies placed out for the benefit and better security of the suitors of the high court of chancery, and shall be made and form part of the same account.

150,000*l*, to be carried to the the court of chancery.

Power to change the se- order or orders of the said court of chancery, to change the security or curities.

Money placed suitors.

necessary directions for such purposes. III. Provided always, That if at any time hereafter the whole or out to be called any part of the money so to be placed out and invested pursuant to in, if required this act shall be wanted to answer any of the demands of the suitors for answering of the said court of chancery, then and in such case the said court the demands of may and shall direct the same or any part thereof to be called in, or the securities on which the same shall be placed to be disposed of, in order that the suitors of the said court may at all times be paid their respective demands out of the common and general cash belonging to such suitors.

II. That it shall and may be lawful for the lord chancellor, by any

securities to be purchased pursuant to this act, or any part or parts

thereof, for other government or parliamentary securities, and again to change such securities respectively from time to time, and to give all

Repeal of so lates to payments to be made by the ank and by

IV. That so much of the said act made and passed in the fifty-third much of 53 G. year of the reign of his late Majesty king George the third, intituled 3. c. 24, as re- An Act for facilitating the Administration of Justice, as enacts, that out of the interest and dividends of all or any of the securities purchased out of the common and general cash in pursuance of former acts, and to be purchased in pursuance of that act, there shall be paid by the

No. VI.

governor and company of the bank of England the net yearly sum of five thousand pounds to the vice chancellor of England for the time 2 & 3 W. 4, being, and so much of the said act as directs that the lord chancellor, lord keeper, or lords commissioners for the time being should, from the time a vice chancellor should be appointed as therein mentioned, the lord chanout of the fees and emoluments belonging to and received in respect cellor to the of the custody of the great seal, or otherwise, pay or cause to be vice chancellor. paid to the governor and company of the bank of England the net yearly sum of two thousand five hundred pounds, in manner therein mentioned, shall be and the same is hereby repealed; and all quarterly payments of the said annual sum of two thousand five hundred pounds which are or would have accrued due thereon shall from and after the fifth day of January last cease and be no longer paid or payable.

V. That out of the interest and dividends that have arisen or may 10,000l. per hereafter arise from the government or parliamentary securities now or Annum to be bereafter to be placed to the said two several above-mentioned accounts, in future paid intituled "Account of monies placed out for the benefit and better se_out of suitors curity of the suitors of the high court of chancery," and "Account of fund to the lord securities purchased with surplus interest arising from securities carried chancellor. to an account of monies placed out for the benefit and better security of the suitors of the high court of chancery," there shall be paid by the governor and company of the bank of England, without any draft from the accountant general of the said court, (but subject and without prejudice to the payment of all salaries and sums of money by any former act directed or authorized to be paid thereout,) the net yearly sum of ten thousand to the lord chancellor, or lord keeper or lords commissioners of the great seal of Great Britain, for the time being, as and for a yearly salary, to be paid from time to time quarterly, free and clear of and from all taxes, deductions, or abatements whatsoever out of the same or any part thereof, and to commence and be computed from the eleventh day of January, one thousand eight hundred and thirty-two, and to be from thenceforth payable quarterly on the eleventh day of January, the eleventh day of April, the eleventh day of July, and the eleventh day of October in every year, by equal portions, the first quarterly payment thereof to be paid and payable as due on the eleventh day of April now last past; and that if any lord chancellor, or lord keeper, or lords commissioners of the great seal, for the time being, shall die or resign, the executor or administrator of the lord chancellor, or lord keeper or lord commissioners, so dying, and the lord chancellor, or lord keeper or lords commissioners, so resigning, shall be entitled to receive and shall be paid such proportionable part of the salary aforesaid as shall have accrued during the time that such person or persons shall have executed the office of lord chancellor, or lord keeper or lords commissioners, since the last quarterly payment thereof; and that the succeeding lord chancellor, or lord keeper or lords commissioners, shall be entitled to receive a like portion of the salary as shall be accruing or shall accrue from the day of the death or resignation of the preceding lord chancellor, or lord keeper or lords commissioners.

VI. That it shall and may be lawful to and for the clerk of the crown, Officers to acthe clerk of the letters patent, the secretary of fines, and the purse count for fees. bearer to the lord chancellor, for the time being, and their successors in the said several offices, and each and every of them, and their several and respective deputies, clerks, or agents, to have, receive, and take all and every the fees and emoluments which have been accustomed to be paid, and which are of right to be paid and payable and received by them respectively by virtue of their said several offices or appointments, or any of them, for the use and on the account of the lord chancellor, lord keeper or lords commissioners of the great seal, for the time being, which shall hereafter accrue due and become payable, or which shall have accrued due and become payable since the eleventh day of January one thousand eight hundred and thirty-two, for the business done by

No. VI. c. 122.

them respectively in their said offices; and that such fees and emolu-2 & 3 W. 4, ments as have accrued and been received between the said eleventh day of January and the eleventh day of July one thousand eight hundred and thirty-two shall be forthwith accounted for and paid by them respectively into the bank of England in the name of the accountant general of the said court, to an account to be intituled "An account of fees formerly payable to the lord chancellor;" and that such fees and emoluments which have or shall accrue due and payable from and after the eleventh day of July one thousand eight hundred and thirty-two shall in like manner be accounted for and paid as aforesaid once in every three months; and that such fees shall on each payment be verified by the oath of the accounting party; and such payment into the bank to the said last-mentioned account shall be certified by the accountant general of the said court to the lord chancellor, or in such other manner as he shall by any order of the said court direct.

Investment of money paid in to the account of f.es.

VII. That it shall and may be lawful for the lord chancellor, by any order or orders of the said court for that purpose, from time to time to order and direct that the money so paid in to the said account of fees formerly payable to the lord chancellor be from time to time invested in the purchase of parliamentary or government securities, to be placed to the account intituled "Account of securities purchased with surplus interest arising from securities carried to an account of monies placed out for the benefit and better security of the suitors of the high court of

chancery."

Annuities to be fees.

VIII. And whereas certain salaries, perquisites, and allowances have henceforth pay- been heretofore payable by his Majesty's letters patent to the lord high able to certain chancellor, and charged upon the office of the keeper or clerk of his officers of chan- Majesty's hanaper in chancery, and the said keeper or clerk of the cery in lieu of hanaper has been accustomed to collect and receive certain fees for the use of the lord chancellor for the time being, but which salaries, perquisites, allowances, and fees it is desirable should cease to be payable to the said lord chancellor from the fifth day of January last; And whereas by the provisions of a certain act of parliament passed in the 2 W. 4. c. 56. second year of the reign of his present Majesty, intituled An Act to establish a court in Bankruptcy, it is enacted, that certain compensations shall be made to the clerk of the hanaper and other officers of the lord chancellor and of the high court of chancery, for the loss of fees under the operation of the said act, and that it shall be lawful for the lords commissioners of his Majesty's treasury to ascertain the amount of the lawful fees and emoluments of the said officers, and to award an annuity or annuities of such an amount and for such term as the lords of the treasury shall find to be a fair and reasonable compensation for the loss to be sustained by all or any of the officers aforesaid by the abolition of of the said fees; and that such annuity or annuities shall be paid out of the fund mentioned in the said act, to be entitled "The secretary of bankrupts compensation account:" And whereas the said keeper or clerk of his Majesty's hanaper, the six clerk comptroller of the hanaper, the sealer, the officer called the chaff wax, and the examiner of the letters patent, have sustained a loss by the abolition of the said fees, and such officers have heretofore received and retained their fees out of the public monies heretofore passing through their hands of the said keeper or clerk of the hanaper; be it enacted, that from and out of the public monies passing through the hands of the said keeper or clerk of his Majesty's hanaper, in chancery, and from and out of the same fund as the said allowances to the said lord chancellor have heretofore been paid to the said lord chancellor for the time being, there shall be paid by the said keeper or clerk of his Majesty's hanaper in every year, into the bank of England, to the credit of the accountant general of the high court of chancery, to the account to be entitled "The Secretary of Bankrupts Compensation Account," such a sum of money as shall be equal to the annuities or annuity which the said lords of the treasury shall find to be from time to time payable to the said keeper or clerk of the hanaper, the six clerk comptroller of the hanaper, the sealer, the chaff wax, and the examiner of the letters patent, during such time as the said lords of the treasury shall find that such annuities or annuity ought to be paid to the said several officers respectively; provided that such sum so to be paid to the said accountant general for the purposes aforesaid shall be certified annually by the said lords of the treasury, and shall in no one year exceed the amount which in any such year but for this act would have been payable to the lord chancellor for the time being, for the salaries, perquisites, allowances, and fees aforesaid.

No. VI. 3 & 4 W. 4, c. 122.

IX. That the said payments to be made by the said keeper or clerk of Such annuities the hanaper to the said accountant general, for the purposes aforesaid, to be payable and all and every annuities and annuity payable out of the said account half yearly. to be entitled "The Secretary of Bankrupts Compensation Account," shall respectively commence and become due from the eleventh day of January last, and shall be paid and payable by equal half-yearly payments; and that if any or either of the officers or persons to whom the said annuities or either of them shall be due or payable for the time being shall resign or die, such officer or person so resigning, and the executor or administrator of such officer or person so dying, shall be entitled to receive and shall be paid such proportionable part of their respective annuities as shall have accrued during the time that such person or person shall have executed such respective office since the last halfyearly payment, and that the person or persons succeeding to any such office or offices shall be entitled to receive such proportionate part of their said respective annuities as shall accrue from the death or resignation of the person or persons so dying or resigning

X. That the receipt and receipts of the said accountant general shall Receipts of acbe a good and sufficient acquittance and discharge to the keeper or clerk countant geneof his Majesty's hanaper in chancery for the time being, for the payment ral to be a suffiof the sums aforesaid, and shall be taken, acknowledged, and received cient discharge. assuch by the commissioners for auditing public accounts.

XI. That the salaries, perquisites, allowances, and fees heretofore Perquisites payable as aforesaid by the said keeper or clerk of the hanaper to the heretofore relord chancellor shall, with such deductions as have been heretofore ceived by lord made therefrom, cease to be payable to the lord chancellor as from the chancellor from fifth day of January one thousand eight hundred and thirty-two, and clerk of hanathat the same from and after that day shall be paid to or retained by the per to cease. said keeper of clerk of the hanaper for the time being, and shall be appropriated in the same manner as all public monies received in the said office in discharge of the various claims thereupon, the said keeper or clerk debiting himself in his public accounts with the receipt of the said fees.

XII. And whereas there has been paid to the lord chancellor, at the 1,1991. 5s. 6d. exchequer, on account of the salary usually payable out of the civil list paid to the lord revenue, the sum of one thousand one hundred and ninety-nine pounds portion of his five shillings and sixpence, being the proportion of the same due from salary, to be the eleventh day of January to the fifth day of April one thousand repaid, and eight hundred and thirty-two: And whereas the salary hereby granted form part of the is directed to commence and be payable from the eleventh day of Ja-consolidated nuary one thousand eight hundred and thirty-two, and it is therefore fund. expedient that the said sum so received as aforesaid should be repaid; be it therefore enacted. That the said sum of one thousand one hundred and ninety-nine pounds five shillings and sixpence shall be repaid by the lord chancellor into the exchequer, and shall be carried to and made part of the consolidated fund of the united kingdom of Great Britain and Ireland.

XIII. And whereas there are charged upon and made payable by the Charges forlord chancellor for the time being certain duties of land tax, and other- merly payable wise, in respect of his said office, and it is intended that the salary for land tax, hereby provided for the said lord chancellor shall be free of all charge; &c. on the be it enacted, That all taxes, rates, and charges heretofore payable by office of lord the lord chancellor for the time being in respect of his said office, for chancellor to land tax, or otherwise howsoever, shall cease to be payable from the Jan. last. fifth day of January now last.

No. VI. 3 & 4 W. 4 c. 82.

Payment of ings under same.

XIV. That out of the interest arising from monies placed out for the benefit and better security of the suitors of the high court of chancery, and interest arising from securities purchased with surplus interest arising from securities carried to an account of monies placed out for the benefit and better security of the suitors of the high court of chancery, costs of this act, the costs and charges incurred in procuring and passing this act, and and of proceed- of all proceedings had or to be had in pursuance thereof, or under the same, shall be paid by the governor and company of the bank of England, by virtue of an order or orders of the high court of chancery to be made for that purpose, but subject and without prejudice to the payment of all salaries and other sums of money which by the several acts herein-before mentioned or referred to, or any other act heretofore made, are directed and authorised to be paid thereout.

Powers given in this act to lord chancellor may be used by his successors.

XV. That the powers and authorities given in this act to the lord high chancellor shall and may be exercised in like manner and are hereby given to the lord chancellor, lord keeper or lords commissioners for the custody of the great seal respectively, for the time being.

3 & 4 W. 4. c. 84.—An Act to provide for the Performance of the Duties of certain Offices connected with the Court of Chancery which have been abolished (1).

[28th August 1833.]

2 & 3 W. 4. c. 111.

WHEREAS by an act passed in the second and third years of the reign of his present Majesty, intituled An Act to abolish certain Sinecure Offices connected with the Court of Chancery, and to make Provision for the Lord High Chancellor on his Retirement from Office, it is provided that the following, amongst other offices (videlicet), the office of keeper or clerk of his Majesty's hanaper, the clerk of the crown in chancery, the clerk of the patents, the clerk of the custodies of lunatics and idiots, the chaff wax, the scaler, the clerk of the presentations, and the clerk of dispensations and faculties, shall utterly cease and determine from and after the twentieth day of August one thousand eight hundred and thirty-three; provided nevertheless, that the said act should not be construed to determine any of the said offices holden in possession or reversion by any person appointed thereto on or before the first day of June then last, until the decease or resignation of such person: And whereas all the persons holding the said offices, except the clerk of the patents, were appointed to such offices prior to the said first day of June one thousand eight hundred and thirty-two: And whereas it is necessary that competent persons shall be appointed for the discharge of all or some of the duties of the said offices when and as such offices shall become vacant; and it is desirable that the persons to be appointed to discharge the duties of such offices shall be paid by fixed salaries for such their trouble: Be it therefore enacted, &c. That the lord chancellor, or the lord keeper or lords commissioners for the custody of the great eal of Great Britain, or other the person or persons for the time being signated "The intrusted by virtue of the king's sign manual with the care and comsecretary of lu- mitment of the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind, shall have as heretofore a secretary, called "The Secretary of Lunatics;" and that from and after the death, resignation, or removal of the person now holding the office of clerk of the custodies of idiots and lunatics, all and every the duties of the said office of clerk of the custodies of idiots and lunatics shall be performed by the said secretary of lunatics, in addition to such other duties as such secretary of lunatics shall be required to perform by the person or

After death,&c. of present clerk of custodies of idiots and lunatics, the duties shall be performed by

persons by whom he shall be appointed; and all the acts to be done by the said secretary of lunatics in performance of the said duties of clerk 3 & 4 W. 4, of the custodies of idiots and lunatics shall in all respects have the same force and effect as if the same had been performed by the said clerk of the custodies or his deputy: Provided always, That it shall be lawful for Proviso. the person or persons intrusted as aforesaid to make such rules and regulations in regard to the duties of such secretary, including such duties as he shall perform by virtue of this act, and to alter or vary the same, as he or they shall think fit.

No. VII. c. 84.

II. That the said lord chancellor, lord keeper, or lords commissioners The duties of for the time being shall have as heretofore an officer called "The Purse- chaff wax and bearer to the Lord Chancellor," and a certain other secretary, called sealer, as va-"The Secretary of Presentations;" and that from and after the time and cancies occur, times when and as the offices before mentioned of chaff wax and sealer, shall reand each of them, shall respectively become vacant by the death, resig. spectively, be nation, or removal of the present respective holders thereof, all and the purse-every the duties of such several offices shall be performed by the said bearer. purse-bearer for the time being; and that when and as the offices of clerk of the presentations and of clerk of dispensations and faculties, and each of them, shall respectively become vacant by the death, resignation, or removal of the present respective holders thereof, all and Duties of clerk every the duties of such several offices shall be performed by the secre- of presentations tary of presentations for the time being; and that all acts to be done by and clerk of the said purse-bearer in performance of the duties of chaff wax and dispensations sealer shall in all respects have the same force and effect as if the same and faculties, as had been done by the said officers called chaff wax and sealer; and that shall respectable all acts to be done by the said secretary of presentations in performance tively be performed and duties of clerk of the presentations and clerk of disperse. of the said duties of clerk of the presentations and clerk of dispensa-formed by setions and faculties shall in all respects have the same force and effect as cretary of preif the same had been done by the clerk of the presentations and the clerk sentations.

of dispensations and faculties. III. That it shall and may be lawful for his Majesty, his heirs and Clerk of the successors, from time to time under their royal sign manual to nomi- crown in channate and appoint fit persons to fill the said several other before-men-cery, and clerk nate and appoint fit persons to nil the said several order below. of the patents tioned offices of clerk of the crown in chancery and clerk of the patents, to be appointed as vacancies may from time to time occur therein; and that such perby the crown sons so to be nominated and appointed shall hold their respective offices as vacancies during good behaviour, notwithstanding the demise of his Majesty or occur. any of his heirs or successors, any thing in the said recited act to the

contrary notwithstanding.

IV. That from and after the said twentieth day of August one thou- Apportionment sand eight hundred and thirty-three as to the said office of clerk of the of salaries. letters patent, and from and after the death, resignation, or removal respectively of the several holders of the said other offices, there shall be paid to the clerk of the crown in chancery the yearly salary of eight hundred pounds; to the clerk of the patents the yearly salary of four hundred pounds; to the secretary of lunatics, for expences attending the office of clerk of the custodies of idiots and lunatics, the yearly sum: of two hundred pounds; to the purse-bearer the yearly sum of fifty pounds for the expences of the office of chaff wax, and for the expences of the office of sealer the like yearly sum of fifty pounds; and to the secretary of presentations, for the expences of the office of clerk of the presentations, the yearly sum of fifty pounds, and for the expences of the office of clerk of dispensations and faculties the like yearly sum of fifty pounds.

V. That from and after the time when the office of the keeper or clerk Regulations of of the hanaper shall become vacant by the death, resignation, or re- office and salamoval of the present holder thereof, all and every the duties of the said ry of clerk of office of keeper or clerk of the hanaper shall be performed by the clerk the hanaper. of the crown in chancery, to be appointed by virtue of this act; and all acts to be done by the said clerk of the crown in performance of such last-mentioned duties shall in all respects be of the same force and effect

No. VII. c. 84.

as if the same had been done by the said keeper or clerk of the hanaper; 3 & 4 W. 4, and that there shall be paid to the said clerk of the crown for the said duties of keeper or clerk of the hanaper the yearly salary of two hundred pounds: Provided always, That if the said office of the now keeper or clerk of the hanaper shall become vacant before any vacancy shall occur in the office of the now clerk of the crown, that then and in such case only the duties of the said office of keeper or clerk of the hanaper shall be performed by the deputy of the now clerk of the crown, until a vacancy shall occur in the office of the said now clerk of the crown, in the same manner as if such deputy were clerk of the crown appointed by virtue of this act, and that there shall be paid to such deputy for the said duties of keeper or clerk of the hanaper the aforesaid yearly salary of two hundred pounds.

Salaries to be in full satisfaction of duties.

VI. That the said several salaries shall be taken in full satisfaction for the duties of the said offices respectively, and of all expences incident to the performance thereof.

Fees to be acpaid into his Majesty's exchequer, and made part of consolidated fund.

VII. That it shall and may be lawful for the several persons who by counted for and virtue of this act shall hereafter hold or perform the duties of the said several offices of keeper or clerk of the hanaper, clerk of the crown in chancery, clerk of the patents, clerk of the custodies of lunatics and idiots, chaff wax, sealer, clerk of the presentations, and clerk of dispensations and faculties, to have, receive, and take all and every the fees and emoluments which have been accustomed to be paid and which of right ought to be paid to the said several officers respectively, or to any deputy or clerk of such several officers, in respect of the said several offices, as the same would have been payable if this act and the said recited act had not been passed; and that such fees and emoluments shall be accounted for once in every three months, commencing in the first instance from the date of such appointments respectively, and shall be paid by the said officers respectively into the receipt of his Majesty's exchequer, and be carried to and made part of the consolidated fund of the united kingdom of Great Britain and Ireland; and the account of the party so paying such fees shall be verified by his oath, which oath any one of the masters in ordinary of the high court of chancery is hereby required and authorized to administer.

In what manner the salaries of officers are to be paid.

VIII. That the said several salaries or sums herein-before directed to be paid shall be issued and payable out of and be charged and chargeable upon the consolidated fund of the united kingdom of Great Britain and Ireland, after paying or reserving sufficient to pay all such sum or sums of money as have been directed under any former act or acts to be paid out of the same fund; and the said salaries or sums shall from time to time be paid and payable quarterly, free and clear of and over and above all fees, rates, taxes, and deductions whatsoever, at the four usual days of payment in the year, that is to say, the fifth day of January, the fifth day of April, the fifth day of July, and the tenth day of October in each year, in even and equal portions, the first payment to be made on such of the said days as shall next happen after the appointment or succession to the said offices respectively shall have taken

Re-appointment of clerk bankruptcy agreeably to act 2 & 3 W. 4, c. 114.

IX. And whereas the office of clerk of involments in bankruptcy is by the said recited act also directed to cease as therein specified, but power of involments in to re-appoint to the said office is given by the act next herein mentioned; be it enacted, That the said office shall and may continue and be in force, and that fit and proper persons may be from time to time appointed to the same, with all the powers, authorities, and duties, fees, rights, and privileges, given to or imposed upon the said office by an act passed in the second and third years of the reign of his present Majesty, intituled An Act to amend the Laws relating to Bankrupts, any thing in the said first-recited act to the contrary thereof notwithstanding.

[No. VIII.] 3 & 4 W. IV. c. 94.—An Act for the Regulation of the Proceedings and Practice of certain Offices of the High Court of Chancery in England.

[28th August 1833.]

WHEREAS by an act passed in the second and third years of the 2 & 3 W. 4, reign of his present Majesty, intituled An Act to abolish certain c. 111. Sinecure Offices connected with the Court of Chancery, and to make Provision for the Lord High Chancellor on his Retirement from Office, it was enacted, that the offices of the patentee of the subpœna office and the registrar of affidavits, amongst others, should cease from and after the twentieth day of August one thousand eight hundred and thirty-three, except as to any person appointed to any such office on or before the first day of June then last: And whereas the patentee of the subpœna office was appointed before that date: And whereas it is necessary that provision should be made for the due performance of the duties to such offices belonging; and it is expedient that other offices connected with the said court should be regulated, and that others should be abolished, and that such of the duties performed in the offices so to be abolished as are necessary to be continued should be transferred to other offices; and that the costs and expences of proceedings in the said court should be diminished, and that increased facilities should be afforded for the dispatch of business therein: Therefore be it enacted, &c., That the office Offices aboof master of the report office, and the offices of entering clerks or enter- lished. ing registrars of the said court, and of clerk of the exceptions, and agent to the senior deputy registrar of the same court, as the same have

heen heretofore held, shall be and the same are hereby abolished.

II. And whereas it is expedient that the sub or deputy registrars of Six registrars the said court should be constituted registrars of the said court, and appointed. that the fees and emoluments to be received by the said registrars and by the clerks in the office of the said registrars should be regulated, and that the business of the suitors of the court in the office of the registrars should be facilited and expedited: therefore be it enacted, That hereafter there shall be six registrars of the said court; and that Francis Benjamin Bedwell, James Christmas Fry, Edward Dodd Colville, and Joseph Collis, Esquires, the present four sub or deputy registrars, and John Francis Le Cointe and Robert Onebye Walker, Esquires, the two present entering clerks, shall be such six registrars; and that on the death, resignation, or removal of any of the six registrars of the said Filling up of court, other than the junior registrar, the vacancy thereby occasioned vacancies. shall be filled up by the registrar next in seniority, to whom no sufficient objection to the satisfaction of the lord chancellor shall be made; and that on the death, resignation, promotion, or removal of the junior registrar, the vacancy thereby occasioned shall be filled up by the senior clerk in the said office for the time being, to whom no sufficient objection to the satisfaction of the lord chancellor shall be made; and that each of such persons so appointed to be registrars, and all and every person and persons hereafter to be appointed to be such registrars, shall be and are hereby authorized and empowered and required personally to do and perform all such matters and things necessary and proper in the due execution of their said offices as belong or appertain thereto, and as have been heretofore done and performed by the sub or deputy registrars of the said court, excepting so far as the same are or shall be altered or varied by this act, or by any rules or orders to be made or issued by the lord chancellor for the time being relative thereto.

III. That the registrars shall attend the court of the lord chancellor, Registrars to the court of the master of the rolls, and the court of the vice chancellor, attend each in such order and manner as shall be found most expedient for fur-judge of the thering the business of the court, and as the lord chancellor, with the court as the concurrence of the master of the rolls and the vice chancellor, or one of lord chancellor, them, shall from time to time by any general order direct; and that in direct;

No. VIII. In case of illappoint a deputy.

case of illness it shall be lawful for any of such registrars, from time to 3 & 4 W. 4, time as occasion may require, to appoint a deputy, such deputy and also the occasion for such appointment to be first approved by the judge on whom it shall be the duty of such registrar to attend, upon a petition to be verified by affidavit, for such time and under such general reguness, they may lations as the lord chancellor, together with the master of the rolls and vice chancellor, or one of them, shall direct; and no such appointment of a deputy shall continue for any longer time than shall be allowed and specified in and by the order which shall be made by the judge to whom such petition shall have been presented; provided that in case any registrar of the said court who shall be prevented by illness from giving his personal attendance shall omit for the space of two days to appoint such deputy, the judge on whom it shall be the duty of such registrar to attend shall, if he shall see fit, himself appoint such deputy, and direct what part of the salary and fees of such registrar shall be received by such deputy, and the same shall be paid over to and received by him accordingly.

Clerks to the registrars appointed.

IV. That there shall be six clerks to the registrars of the said court; and that Henry Edgeworth Bicknell, James Montresor Standen, Henry Hussey, Francis Robert Bedwell, Cecil Munro, and Edward Dodd Colville junior shall be such clerks; and that on the death, resignation, promotion, or removal of any of them the said clerks, other than the junior clerk, the vacancy thereby occasioned shall be filled up by the clerk next in seniority, to whom no sufficient objection to the satisfaction of the lord chancellor shall be made.

Mode of future sixth clerk.

V. That on all future vacancies of the office of sixth clerk to the said appointment of registrars, other than in the cases provided for of the assistant clerks, the lord chancellor for the time being shall appoint some proper person who has been admitted and entered on the roll of solicitors or attornies of some one of his Majesty's courts in Westminster Hall, or who shall have duly served a term of not less than five years under articles of clerkship to some solicitor or attorney of some one of the said courts, to be such sixth clerk to the said registrars, and that the several clerks to the said registrars so appointed and to be appointed shall and they are hereby required personally to perform all such matters and things as are necessary and proper in the due execution of the business of the said office of the registrars, and as have heen hitherto done and performed by the clerks of the sub or deputy registrars of the said court, excepting so far as the same are or shall be varied by this act, or by any rules or orders to be made or issued by the lord chancellor for the time being relative thereto.

Assistant clerks to registrars.

VI. That Robert Walker Fry and Richard Howell Leach shall act as assistant clerks to the before-named registrars, and that the said Robert Walker Fry and Richard Howell Leach, each in his turn, shall succeed to the office of junior clerk of the said registrars as and when vacancies shall occur, unless cause shall be shown to the contrary to the satisfaction of the lord chancellor; but no clerk shall be appointed to supply the place of the said Robert Walker Fry and Richard Howell Leach, or either of them.

Lord chancellor may increase number of clerks in register office to eight.

VII. That if it shall hereafter appear to the lord chancellor that the business of the said registrar's office cannot be discharged with due dispatch without more than six clerks, then and in such case it shall be lawful for the lord chancellor from time to time to appoint one or more additional clerk or clerks, so that the number of clerks in the said office shall in no case exceed the number of eight clerks; and such additional clerk or clerks shall succeed to and fill any vacancy when and as the same may occur by any death, resignation, promotion, or removal of any other clerk, in the same manner as the right of succession is given to the said before-named clerks and assistant clerks.

Master of reports and entries appointed.

VIII. That there shall be an officer to be called "The Master of Reports and Entries," to which office the said several registrars and the six senior clerks to the said registrars shall in the event of a vacancy in the said office, according to their seniority, be entitled to succeed; but

any such registrar or clerk so taking such office shall vacate his office of No. VIII. registrar or clerk, and shall not thereafter be entitled to fill either of such 3 & 4 W. 4. offices, or to succeed any other registrar or clerk; and in the event of the said registrars and senior clerks declining to accept such office upon any vacancy, the same shall be filled by the nomination from time to time of the lord chancellor; and the duties heretofore performed by the master of the report office, by the entering registrars or entering clerks, and by the clerk of the exceptions of the said court, so far as it shall be found necessary or expedient to continue such duties, shall be performed by the said master of reports and entries in such manner and under such rules and regulations as the lord chancellor, together with the master of the rolls and vice chancellor, or one of them, shall, by any general rules or orders to be issued by them, direct or appoint; and the said master of reports and entries shall receive and account for, in manner hereinafter mentioned, all the fees heretofore receivable by the said master of the report office, the entering clerks or entering registrars, and the said clerk of the exceptions.

IX. That there shall be in the office of the said master of reports and Clerks in the entries, and subject to his direction, a clerk, to be called the clerk of office of the reports; two clerks, to be called clerks of entries; and ten clerks of ac- master of recounts; that John Henry Standen, now acting as agent to the master of ports and the report office, shall be such clerk of reports; that John Reid and entries. Edward Reid, now acting as clerks to the entering registrars, shall be such clerks of entries; and that William Lampert, Jonathan Williams White, Edward Johnson, John Reid, Thomas Augustus Gale, Godfrey Marsden, Henry Frederick White, John Crump Routledge, and Charles Routledge, now acting as clerks of accounts in the said office, shall be continued in the said offices, and that one other such clerk shall be appointed by the lord chancellor; and that on the death, resignation, promotion, or removal of any of the said clerks of accounts in the said office, or their successors, other than the junior clerk, the vacancy thereby occasioned shall be filled up by the clerk next in seniority, against whom no objection to the satisfaction of the lord chancellor shall be made; and that in the event of a vacancy happening by the death, resignation, promotion, or removal of the junior clerk, the lord chancellor shall from time to time appoint some proper person to be such junior clerk; and the said lord chancellor shall also appoint a successor in the event of a vacancy of the clerk of reports and of either clerk of entries.

X. That any person shall be at liberty to take an office copy of so As to copies of much only of any decree, order, report, or exceptions as he may require; decrees, &c. and that, unless the court shall otherwise specially direct, no recitals No recitals to shall be introduced in any decree or order of the said court, but the beintroduced in pleadings, petition, notice, report, evidence, affidavits, exhibits, or other decrees and matters or documents on which such decrees and orders shall be founded orders. shall merely be referred to; and it shall be lawful for the lord chancellor, if he shall think fit, together with the master of the rolls and vice chancellor, or one of them, to make and issue such rules and regulations as to the form of such decrees and orders as he may deem necessary or proper for the proper drawing up of such decrees and orders, and carrying into effect the provisions of this act in regard thereto.

XI. That there shall be an officer, to be called the clerk of the affida- Clerk of affidavits, who shall do and perform all the duties heretofore done and per- vits. formed by the registrar of affidavits, and shall receive and account for, in manner herein-after mentioned, all such fees as were heretofore receivable by the said registrar of affidavits; and that there shall be an assistant clerk to the said clerk of the affidavits; and that such clerk of Assistant clerk. the affidavits and assistant clerk shall be from time to time appointed by the lord chancellor.

XII. That from and after the death, resignation, or removal from his Patentee of office of the present patentee of the subpæna office, all the duties of such subpæna office. office shall be performed by the said clerk of the affidavits, who shall

No. VIII.

c. 49.

subject to appeal;

but not the court, except on appeal.

Costs on interlocutory matters.

Masters to be hereafter appointed by the King by letters patent.

Masters of the court of chancery to report yearly to the lord chancellor;

and annex to such report a list of causes then pending in his office.

As to the person chief clerk.

Suitors not take copies.

thereupon receive and account for, in manner herein-after mentioned, 3 & 4 W. 4, all the fees now receivable by the said patentee.

XIII. That the masters in ordinary of the high court of chancery shall hear and determine all applications for time to plead, answer, or demur, Master to hear and for leave to amend bills, and for enlarging publication, and all such certain interlo- other matters relating to the conduct of suits in the said court as the cutory matters lord chancellor, with the advice and assistance of the master of the rolls and vice chancellor, or one of them, shall by any general order or orders direct, in such manner and under such rules and regulations as by any general order or orders to be also issued by the lord chancellor, with the advice and assistance aforesaid, shall be directed; and that it shall be lawful for either party to appeal by motion from the order made on such application to the lord chancellor, master of the rolls; or vice chancellor, and that the order made on such appeal shall be final and con-

XIV. That no such application as above mentioned shall in future be heard by any of the judges of the said court of chancery, except on appeal as herein-before provided.

XV. That it shall be lawful for the said masters, on all applications made to them by virtue of this act, to direct that the costs of all or any of the parties shall be costs in the cause or matter, or to award such liquidated sum by way of costs to any of the parties as they shall think reasonable; and the costs so awarded shall be recoverable in like manner as costs directed to be paid by an order of the court of chancery.

XVI. That the appointment of all masters in ordinary of the high court of chancery, other than the accountant general of the said court, shall be vested in his Majesty, his heirs and successors, and that such master shall hereafter be appointed by letters patent under the great seal of Great Britain, and shall take the usual oaths before the lord chancellor, in like manner as such oaths have been heretofore administered.

XVII. That each of the said masters in ordinary of the high court of chancery shall within the first four days of Michaelmas term in each and every year present or cause to be presented to the lord chancellor a report in writing under the hand of such master, stating the days on which he shall have attended at his office for and during twelve months preceding such return in the performance of his duty, specifying the number of hours occupied in each of such day's attendance as aforesaid; and further, that each such master shall annex to such his report a list or schedule, to be signed by him in like manner, of the several causes, petitions, or matters of every description then pending in his office, showing the then state and stage of the same respectively, designating each cause, petition, or matter by the name or names of the party or parties thereto, or some of them, with the name or names of each solicitor engaged therein; and thereupon it shall be lawful for the said lord chancellor to make and issue such order for filing or depositing and otherwise giving publicity and access to such list or schedule as he in his discretion shall think fit.

XVIII. That no person shall be appointed to be chief clerk of any to be appointed master in ordinary of the said court unless he shall have been admitted on the roll of solicitors or attornies in one of the courts of Westminster Hall for not less than five years, or shall have been a junior clerk in the office of one of the said masters for a term of ten years.

XIX. That no person shall be compelled or required to take or pay compellable to for any copy of any paper or document being in the office of any master in ordinary; and that every person shall be at liberty to take a copy of such part only as he may require of any paper or document being in the

⁽¹⁾ The jurisdiction of the court to amend, as of course, is not excluded by this and the following section of the act. and the new orders founded thereon; Cullingworth v. Grunby, 2 Mylne nd Keen, 359.

office of any such master, and of any interrogatories and depositions No. VIII. being in the office of either of the examiners of the said court: Pro- 3 & 4 W. 4, vided always, That in the taxation of costs as between party and party, or as between solicitor and client, no person be allowed the costs of the copy of any paper or document, or of any part of any paper or document, originating in the master's office, or brought in before a master, unless such copy shall have been either made in the master's office, or transcribed from a copy made therein, and taken by the party claiming to be allowed the costs of such second or other copy, or unless such copy shall have been made for the use of any master, or of the court, or by the desire or for the use of the client or clients of the solicitor claiming to be paid for such copy.

XX. That each and every of the masters in ordinary, registrars, and Officers and clerks of the said registrars, master of reports and entries, clerk of affi-clerks to hold davits, and examiners of the said court, shall hold their said offices their offices during their good behaviour, and so long as they shall personally give haviour. their attendance upon their respective duties, and shall conduct themselves honestly and faithfully in the due execution of the duties of their

said offices respectively.

XXI. That the several offices of the high court of chancery shall be Hours of busiand continue open for the dispatch of business during such hours in the ness in the day, and that the officers and clerks belonging thereto respectively shall several offices. attend in such offices in the discharge of their several duties during such times and for such number of hours in each day, as the lord chancellor, together with the master of the rolls and vice chancellor, or one of them, shall by any order or orders to be issued by them from time to time direct; and that the officers and clerks in the said respective offices shall give their personal attendance in their respective offices during the times they shall so as aforesaid be directed to attend, unless otherwise engaged in the business of their respective offices, or prevented by sickness or other unavoidable cause.

XXII. That it shall and may be lawful for the lord chancellor, with Lord chancelthe advice of the master of the rolls and vice chancellor, or one of them, lor empowered and they are hereby required, forthwith to make and issue such general to make rules orders as they shall think fit for carrying the provisions of this act into for simplifying execution, and such other rules and orders, not being inconsistent with and settling the the enactments and provisions of this act, as they shall think fit and court. proper, for simplifying, establishing, and settling the course of practice

of the said court and of its several offices. (1)

XXIII. That the lord chancellor, with the like advice of the master of and to annul or the rolls and vice chancellor, or one of them, shall be and is hereby alter the same. authorized and empowered, by the like general orders to be made and issued by them as aforesaid, from time to time to annul, alter, or vary any orders which may have been so as aforesaid made and issued, and to issue new rules and orders for the purposes herein-before mentioned,

or any of them.

XXIV. That it shall be lawful for the master of the rolls for the time Master of the being, and he is hereby required, to hear and determine all such motions rolls to deterarising in causes depending in the high court of chancery as shall be mine motions duly made before him according to the usage and practice of making arising in the motions in causes before the lord chancellor, and to hear and determine high court all such pleas and demurrers filed in causes depending in the high court chancery. of chancery as shall be duly set down for hearing before him; and that all orders made by the said master of the rolls for the time being upon the hearing of such motions, pleas, and demurrers respectively shall be deemed and taken to be respectively valid orders of the high court of chancery; subject nevertheless in every case to be discharged, reversed, or altered by the lord chancellor for the time being.

c. 94.

high court of

⁽¹⁾ A variety of rules regulating the practice of the courts of equity have been issued under the authority of this clause.

No. VIII. 3 & 4 W. 4, c. 94.

XXV. Provided also, That nothing herein contained shall be construed to require the present master of the rolls to hear and determine any such motions, pleas, or demurrers, unless he shall think fit to give directions for that purpose.

Exception as to present master of rolls.

Solicitors appointed to any off the rolls.

Examiners authorized to administer oaths to witnesses.

Vacancies in six clerks' office not to be filled up until the number is reduced to two.

XXVI. That every solicitor or attorney who shall be appointed to and shall accept any office or employment under or by virtue of this act shall office under this forthwith be struck off the roll of solicitors of the high court of chanact to be struck cery, and off the roll of attornies of any of his Majesty's courts of record

at Westminster, on which his name may be.

XXVII. That the examiners of the high court of chancery shall be and they are hereby authorized and empowered to administer the usual and accustomed oaths, and to take the usual affirmations of the witnesses examined before them; and that all depositions of witnesses examined in the high court of chancery shall hereafter be taken in the first person; and the said examiners shall receive and account for, in manner hereinafter mentioned, all the fees heretofore receivable by the said examiners or their clerks.

XXVIII. That as vacancies may occur in the office of six clerks of the said court, such vacancies shall not be filled up until the number of such six clerks be reduced to two clerks, and that such two clerks shall have all the rights and privileges and perform all the duties heretofore had and performed by the six clerks, whether as clerks of the inrolment of the high court of chancery, or otherwise, until it shall be otherwise provided by act of parliament; and when and as often as any one or more of the six clerks, other than the two clerks to be continued as aforesaid, shall die, or resign, or be removed from his office all fees and emoluments which would have accrued to any such six clerk or six clerks if he or they had lived and continued in office, shall be received by and be accounted for on oath (such oath to be administered by one of the masters of the said court), and be paid by the surviving or continuing six clerks into the bank of England, to the credit of the accountant general of the said court, to be by him placed to the credit of an account to be intituled "The Suitors' Fee Fund Account."

Restraint on sworn clerk.

XXIX. That no clerk shall be articled to any sworn clerk or writing clerk of the said court at any time between the passing of this act and the first day of May next.

As to the pow-

XXX. That the powers and authorities given by this act to the lord ers given to the high chancellor shall and may be exercised in like manner and are hereby lord chancellor, given to the lord keeper or lords commissioners for the custody of the great seal respectively for the time being.

New mode of issuing subpænas.

XXXI. That the patentee of the subpœna office shall forthwith provide a seal, in such form and with such impression as the lord chancellor shall approve of; and that the lord chancellor for the time being may cause such seal or impression to be varied from time to time as to him may seem fit; and that any person desirous of issuing a writ of subpæna, such as has been heretofore issued by such patentee, may prepare such subpæna, and present the same for sealing, and the same shall henceforth be an open writ, and either in the present form or in any other form which the lord chancellor may from time to time direct; and such writ shall, upon presentment thereof for that purpose, be forthwith sealed with such seal, and shall have the same force and validity as a writ of subpœna now has when sealed with the great seal; and there shall hereafter be paid for each such subpæna, on the same being sealed, the sum of five shillings and sixpence, which sum shall be received by the patentee of the subpæna office until his death, or resignation of or removal from his said office, who, out of each sum so to be received by him, shall pay to the receiver of the sixpenny writ duty the sum of sixpence, to the chaff wax and his deputy, for their equal use, the sum of two-pence, and to the sealer attached to the great seal and his deputy, for their equal use, the like sum of two-pence; and from and after the death, resignation, or removal of the present patentee.

such writs of subposna shall be sealed by the said clerk of the affidavits, No. VIII. who shall thenceforth receive the same sum of five shillings and six- 3 & 4 W.4, pence, and after discharging the like fees and outgoings to the several before-mentioned officers shall pay what may remain to the said accountant general, to be by him placed to the credit of the said account entitled "The Suitors Fee Fund Account."

XXXII. That the several annual sums or yearly payments provided Annual sums for and directed to be paid to the sub or deputy registrars of the high paid to deputy court of chancery for the time being, and their clerks in the same office, registrars, &c. and to the master of the report office and his clerks, by an act or acts of to cease.

parliament whatsoever now in force, shall cease.

XXXIII. That there shall be paid by the said accountant-general, out Salaries to of the fund to be placed to his account, to be entitled "The Suitors Fee officers. Fund'Account," to the several officers named in the schedule hereunder written, the several salaries or yearly sums set opposite to their respective names or titles in such schedule, and that such salaries or yearly sums shall be payable and paid by equal quarterly payments on the twenty-fifth day of February, the twenty-fifth day of May, the twentyfifth day of August, and the twenty-fifth day of November in every year, the first of such quarterly payments to be made on the twenty-fifth day

of February one thousand eight hundred and thirty-four.

XXXIV. That in the event of the death, resignation, or removal of Proportion of the masters in ordinary or their clerks, or of any officer to be appointed salaries to reor continued by virtue of this act, in the interval between any of the presentatives of quarterly days of payment on which his salary is hereby made payable, deceased the officer so resigning or being removed, or the executors or adminis- officers. trators of the officer so dying, shall be entitled to receive and shall be paid such proportionate part of his said salary as shall have accrued from the next preceding quarterly day of payment to the day of such death, resignation, or removal; and the person next in succession to any such officer shall be entitled to receive and be paid such portion of the said salary as shall have accrued and may accrue from the day of such death, resignation, or removal as aforesaid to the next succeeding quarterly day of payment.

XXXV. That there shall be paid by the said accountant general, out First payment of the like fund, the sum of one hundred and twenty-five pounds to the to clerk of affisaid clerk of the affidavits, and the sum of thirty-seven pounds ten davits. shillings to the said assistant clerk of the affidavits, for and in lieu of their respective salaries, from the passing of this act to the twenty-fifth day of November following.

ing to the credit of the said account entitled "The Suitors Fee Fund case of surplus Account," after payment of the several salaries or sums of money or deficiency in hereby charged thereon, it shall be lawful for the lord chancellor, by any fee fund. order or orders of the said court of chancery, to direct that any surplus which may remain on the said account to be entitled "The Suitors Fee Fund Account," after paying the several salaries or sums of money hereby charged thereon, or such part thereof as to the said lord chancellor shall seem fit, shall be invested in the purchase of parliamentary or government securities, in the name of the said accountant general, to be placed to an account to be entitled "Account of Monies placed out to provide for the Officers of the High Court of Chancery;" and it shall be lawful for the lord chancellor in like manner to direct the investment of the dividends or interest to accrue from time to time on such lastmentioned securities, or so much of such dividends and interest as he shall think fit, in the purchase of parliamentary or government securities, in the name of the said accountant general, to be by him placed to the credit of the said last-mentioned account; and in the event of there being a deficiency in the said account to be entitled "The Suitors Fee Fund Account," at any of the times hereby appointed for payment of the salaries herein-before mentioned, to raise and pay the

several sums then due, it shall be lawful for the lord chancellor to direct

XXXVI. That if at the end of any year there shall be a surplus stand- Provision in

c. 94.

No. VIII. the said accountant general from time to time to make good such defi-3 & 4 W. 4, ciency, as often as the same shall arise, by carrying over and placing to the said account to be entitled "The Suitors Fee Fund Account" a sum sufficient for that purpose out of the interest and dividends to arise from the government or parliamentary securities standing to the said account to be entitled "Account of Monies placed out to provide for the Officers of the High Court of Chancery," or by a sale of so much of the said securities as may be necessary for that purpose; and in case such last-mentioned securities, and the interest and dividends thereof, shall be at any time insufficient to meet any such deficiency, it shall be lawful for the lord chancellor to direct the said accountant general from time to time to make good such last-mentioned deficiency, as often as the same shall arise, by carrying over and placing to the said account to be entitled "The Suitors Fee Fund Account" a sum sufficient for that purpose out of the interest and dividends that have arisen or may hereafter arise from the government or parliamentary securities now or hereafter to be placed to two several accounts in the bank of England, standing in the name of the said accountant general, and intituled "Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," and "Account of Securities purchased with surplus Interest arising from Securities carried to an Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery." XXXVII. That it shall be lawful for the lord chancellor, with the

Table of fees to be settled and account.

advice and concurrence of the master of the rolls and the vice chanpaid to see fund cellor, or one of them, to fix and settle a table of sees to be received and taken by the clerks to the masters in ordinary, and by the said registrars and their clerks; and that the said clerks to the said masters in ordinary, and the said registrars and their clerks, shall and may thereafter take and receive such fees; and that the said clerks to the said masters in ordinary, and the said registrars and their clerks, and also the said master of reports and entries, the clerk of the affidavits, and the examiners, shall pay into the bank of England, to the credit of the said accountant general, once in every month, all fees or sums of money to be received by them respectively by virtue of this act (the amount so received and paid by them to be verified by affidavit to be sworn before one of the masters of the said court); and that the several sums, when so paid in, shall be from time to time placed to the said account Allowances for to be intituled "The Suitors Fee Fund Account": Provided always nevertheless, that the master of reports and entries, before making such payment as aforesaid, shall be allowed to deduct from the sum so received by him, and to pay to the said clerk of reports, one penny halfpenny per folio of ninety words for every office copy made and delivered by him, and to the clerks of entries the like sum of one penny halfpenny per folio of ninety words for all entries made by them: and that the clerk of the affidavits shall in like manner be allowed to deduct from the sum so received by him, and to pay to his assistant clerk, the sum of one penny halfpenny per folio of ninety words for every office copy of affidavit made and delivered by him; and that the examiners shall in like manner be allowed to deduct from the sums to be received by them in manner aforesaid, and to pay to their clerks, the sum of one penny halfpenny per folio of ninety words for every office copy to be made and delivered by them.

Table of fees to be laid before

parliament.

copying.

XXXVIII. That the table of fees so to be taken and received shall, within fourteen days next after the same shall be settled in manner aforesaid, he laid on the table of the house of commons, if parliament shall be then assembled, or if parliament shall not be then assembled, then within fourteen days after the meeting of parliament then next following.

XXXIX. And whereas by an act passed in the fifth year of the reign of his late Majesty king George the third the annual sum of two hundred pounds was directed to be paid to each of the eleven masters in ordinary of the high court of chancery, out of the interest and dividends No. VIII of the government or parliamentary securities, herein-before and next 3 & 4 W. 4, herein-after mentioned; and by an act passed in the forty-sixth year of the reign of his late Majesty king George the third the annual sum of four hundred pounds was directed to be paid to each of the said eleven masters in ordinary, out of the interest and dividends of the same securities, in addition to their respective salaries; be it further enacted, 2,5001. to be That so much of the said act as directs the payment of the said several paid annually sums of two hundred pounds and four hundred pounds to each and to the masters every of the said masters, other than the accountant general, shall be in ordinary, exand the same is hereby repealed; and that out of the interest and divi- clusive of the dends of the said government or parliamentary securities carried or to accountant be carried to the said account entitled "Account of Monies placed out general. for the Benefit and better Security of the Suitors of the High Court of Chancery," and out of the interest and dividends of the government or parliamentary securities carried to the said account entitled "Account of Securities purchased with surplus Interest arising from Securities carried to an Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," in the said recited acts passed in the fifth and forty-sixth years of the reign of his late Majesty king George the third respectively mentioned, and out of the interest and dividends of any government or parliamentary securities hereafter to be purchased and placed to the last-mentioned accounts, there shall be paid (but subject to and without prejudice to the payment of all salaries and other sums of money by any act or acts of parliament not hereby repealed directed or authorized to be paid thereout) by the governor and company of the bank of England, by virtue of an order or orders of the high court of chancery to be made for that purpose, without any draft from the accountant general of the said court, the annual sum of two thousand five hundred pounds to each and every of the masters in ordinary of the said court for the time being, exclusive of the accountant general, free from all parliamentary taxes and deductions whatsoever, which said annual sum of two thousand five hundred pounds to each of the said masters, exclusive as aforesaid, shall commence from the twenty-fifth day of November next, and shall be paid by equal quarterly payments on the twenty-fifth day of February, the twenty-fifth day of May, the twenty-fifth day of August, and the twenty-fifth day of November in every year.

XL. That it shall be lawful for the copying or writing clerks of the 13d. per folio to said masters to receive and take the sum of one penny halfpenny per bepaid to copyfolio of ninety words, and no more, for every copy of every document ingularks in the or writing, or a part of any document or writing, made in the masters masters' offices. offices, from the party requiring the same, and also for the transcript of every report; and that such sum of one penny halfpenny per folio shall be retained by the said writing or copying clerks to be employed by the said masters in their respective offices, and that no part thereof shall be received or retained by or applied for the use or benefit of any other person or persons on any pretence whatsoever.

XLI. That if any master in ordinary of the high court of chancery, or Officers and any person holding any office, situation, or employment in any office of clerks not to the said court, or under any of the judges or officers thereof, shall, for take gratuities. any thing done or pretended to be done relating to his office, situation, or employment, or under colour of doing any thing relating to his office situation, or employment, wilfully take, demand, receive, or accept, or appoint or allow any person whatsoever to take for him or on his account, or for or on account of any person by him named, or in trust for him or for any other person by him named, any fee, gift, gratuity, or emolument, or any thing of value, other than what is allowed or directed to be taken by him as aforesaid, the person so offending, when duly convicted, shall forfeit and pay the sum of five hundred pounds, and Penalty on conshall be removed from any office, situation, or employment he may hold viction of in the said court, and shall be rendered and is hereby rendered incapa-offender.

c. 94.

may be prosecuted.

Lord chancellor may order expences of the offices to be paid.

No. VIII. ble for ever thereafter of holding any office, situation, or employment 3 & 4 W. 4, in the said court, or otherwise serving his Majesty, his heirs or suc-CESSOTS.

XLII. That any such offender may be prosecuted either by informa-How offenders tion at the suit of his Majesty's attorney general, or by criminal information before his Majesty's court of king bench, or by indictment.

XLIII. That it shall be lawful for the lord chancellor, by virtue of any order or orders of the said court to be made for that purpose, to order and direct an annual account to be taken, and to order payment, out of the funds herein-after mentioned, of all such sums as shall appear to the lord chancellor to be reasonable and proper to be paid to the masters, the registrars, the master of reports and entries, the clerk of affidavita, and the examiners, and the clerks in the same several offices respectively in order to reimburse them for any expences reasonably and necessarily expended by them from and after the day on which this act shall come into operation until the fifth day of April then next following, and after that time between the sixth day of April in every year and the fifth day of April in the following year, both inclusive, for the care or cleaning of the rooms or buildings in which any such offices may be held, or for any rent payable for or in respect of any such buildings or rooms, in paying for books or stationery provided or supplied for carrying on the business of the said respective offices, other than the paper used for making copies for parties in the said several offices of the masters, the master of reports and entries, the clerk of affidavits, and the examiners, or in providing coals and candles and other necessary articles for the said offices and each of them, or in payment of taxes, rates, and other assessments charged upon or payable for or in respect of the said offices and buildings, and each or either or any of them, or to which the said several officers or any of them may be liable in respect thereof; and that the expences aforesaid of or relating to the said several offices and buildings shall be paid out of the interest and dividends of the government or parliamentary securities carried to the said two several accounts entitled "Account of Monies placed out for the benefit and better Security of the Suitors of the high Court of Chancery," and "Account of Securities purchased with surplus Interest arising from Securities carried to an account of Monies placed out for the benefit and better Security of the Suitore of the High Court of Chancery," or either of them.

Lord chancellor, &c. may diminish fees.

XLIV. That it shall and may be lawful for the lord chancellor, with the advice and concurrence of the master of the rolls and the vice chancellor, or one of them, from time to time, by any general order or orders, to direct that the several fees hereby authorized to be received and taken, or any of them, may be varied and increased or reduced in amount, or wholly omitted to be received, as to them shall seem fit, and as circumstances may require, provided that sufficient of such fees shall be left to meet the demands hereby directed to be paid thereout.

Power to invest

XLV. That the surplus interest and annual produce which hath arisen surplus interest and shall arise from the monies placed out on the several accounts enof suitors fund, titled "Account of Monies placed out for the Benefit and better Security of the suitors of the High Court of Chancery," and "Account of Securities purchased with surplus Interest arising from Securities carried to an Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," beyond what shall be sufficient to answer the purposes of this and the several other acts relating to such securities, and also the interest produced from the securities purchased with such surplus interest and annual produce, shall from time to time be placed out in the purchase of government or parliamentary securities, in the name of the accountant-general of the said court, and placed to the credit of the said account entitled "Account of Securities purchased with surplus interest arising from Securities carried to an Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery."

XLVI. That if at any time hereafter the whole or any part of the monies placed out to the said two several accounts intituled "Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," and "Account of Securities purchased with surplus interest arising from Securities carried to an Account of Money placed Monies placed out for the Benefit and better Security of the Suitors of out, if required the High Court of Chancery," or to be placed out in pursuance of this to answer deact, shall be wanted to answer any of the demands of the suitors of the mands of said court of chancery, then and in such case the said court may and suitors, to be shall direct the whole or any part of such monies to be called in, and the securities in which the same and the surplus interest and dividends herein-before mentioned shall be placed, to be sold and disposed of, in order that the suitors of the said court may at all times be paid their respective demands out of the common and general cash belonging to such suitors.

No. VIII. 3 & 4 W. 4,

XLVII. That it shall be lawful for the lord chancellor, by any order Power to or orders of the said court of chancery, to authorize the change of the se- change securicurity or securities, or of any part of the securities, to be purchased ties. pursuant to this act.

XLVIII. And whereas it is alleged that the emoluments of the pre- Lords of the sent masters in ordinary, and of the registrars and the clerks of the said treasury may registrars, and of the clerks to the entering registrars, and of the exa-grant compenminers and their clerks, will be greatly diminished by the operation of sation to perthis act, for which they claim to have compensation made: And sons herein whereas the office of master of the report office, now held by Thomas mentioned Alexander Raynsford esquire, and the office of clerk of exceptions, and under certain of agent to the senior deputy registrar, now held by Mr. James Bird, conditions. will be abolished by this act: And whereas the office of registrar of affidavits will have ceased and determined from and after the twentieth day of August one thousand eight hundred and thirty-three, and a clerk of affidavits, with greatly reduced emoluments, is to be substituted for the said registrar by virtue of this act; and instead of two assistant clerks in the said office there is hereafter to be only one such clerk: And whereas William Nicholson, the present senior clerk in the said office, has been employed as a clerk therein for forty-two years past, and by infirm health is become incapable of effectually discharging the duties of the office of clerk of affidavits; and the said Thomas Alexander Raynsford, James Bird, and William Nicolson claim compensation in respect of their said several offices so held by them; be it therefore enacted, That it shall be lawful for the lords commissioners of his Majesty's treasury for the time being, or any three or more of them, and they are hereby required, within the space of six calendar months next after the passing of this act, by examination on oath or otherwise, which oath they and each of them are and is hereby authorized to administer, to inquire whether any, and if any what, compensation ought to be made to all or any of the said officers and persons herein-before mentioned as claiming such compensation, the said commissioners having regard to the conditions on which the appointment of any such officer was made, or to any notice which at the time of such appointment may have been given to such officer, that such office was to be holden subject to any provision by parliament for the abolition or regulation thereof, but with full power for the said commissioners to investigate and determine whether, from the nature of the said offices or the mode of accession thereto, any such conditions or notice could have been properly made or given, and also having regard to the holding of any office, place, or situation by such officer under this act; and that in all cases in which it shall appear to the said lords commissioners that compensation ought to be granted, it shall be lawful for the said lords commissioners, or any three or more of them, by warrant under their hands, to order and direct that such annual or other compensation shall be made to the persons so claiming such compensation as aforesaid, or any of them, as to the said lords commissioners in their discretion shall seem just and reasonable; and all such compensations,

3 & 4 W. 4, c. 94.

No. VIII. whether annual or in gross, shall be issued and paid and payable by the said accountant-general, by virtue of an order or orders for that purpose to be made by the said court of chancery, out of the funds hereby directed to be carried to the said account entitled "The Suitors Fee Fund Account: Provided always, That an account of all such compensations shall, within fourteen days next after the same shall be so granted, be laid upon the table of the house of commons, if parliament shall be then assembled, or if parliament shall not be then assembled, then within fourteen days after the meeting of parliament then next following.

Treasury may

XLIX. And whereas it may be expedient for the further diminishing grant compen- of the expence of suits in the said court of chancery that other alterasation to secre- tions may be made in the practice of the said court by abolishing orders tary of the mas- of course and otherwise, and such alterations may materially diminish ter of the rolls, the present emoluments of the secretary of the master of the rolls; be it enacted, That it shall be lawful for the lords commissioners of his Majesty's treasury to inquire whether any, and if any what, compensation ought to be made to the said secretary for any such loss of emoluments, regard being had to the nature of his office, and to the circumstances under which such emoluments are payable and have lately increased; and if it shall appear to the said lords commissioners that compensation ought to be granted, it shall be lawful for the said lords commissioners, or any three or more of them, by warrant under their hands, to order and direct that such annual or other compensation shall be made to the present secretary, or to the secretary of the master of the rolls for the time being, as to the said lords commissioners in their discretion shall seem just and reasonable; and such compensation, whether annual or in gross, shall be issued and paid in like manner and out of the like fund as is herein-before provided with reference to compensations to be granted to other officers of the said court; and an account of any such grant of compensation shall be laid before parliament in the same manner as is provided as to other compensations.

Masters in chancery appointed after entitled to annuity for length of service.

L. And whereas by an act passed in the forty-sixth year of the reign of his late Majesty king George the third, intituled An Act for making Provision for such Masters in Ordinary of the High Court of Chancery as this act not to be Approphrise of the arid Court of the c Approbation of the said Court, and for augmenting the Income of the Masters in Ordinary of the said Court, it is provided, amongst other things, that it shall be competent to the lord chancellor to order an annuity or clear yearly sum of money, not exceeding one thousand five hundred pounds, to be paid to any of the eleven masters in ordinary of the high court of chancery who shall have been a master in ordinary of the said court for the term of twenty years, or who shall be afflicted with some permanent infirmity disabling him from the due execution of his office, and who shall be desirous of resigning the same: And whereas it is expedient that allowance should not be made to any of such masters hereafter to be appointed in respect of length of service, but only in case of permanent infirmity and disability; be it therefore enacted, That no master in ordinary of the high court of chancery to be appointed after the passing of this act shall receive or be entitled to receive any annuity or allowance whatsoever in respect only of length of service, any thing in the said last-recited act to the contrary notwithstanding.

Order for payto master to contain the

LI. That in case any order shall hereafter be made by the lord chanment of annuity cellor for the payment to any such master hereafter to be appointed of any annuity or yearly sum, in regard that such master may have become afflicted with some permanent infirmity disabling him from the due execause of making cution of his office, then and in such case the said lord chancellor shall in such order state the cause for the making the same, and shall cause a copy of such order to be laid on the table of the house of commons within fourteen days next after the making the same if parliament shall be then assembled, and if parliament shall not be sitting, then within fourteen days next after the assembling thereof.

LII. That in all cases in which the said lord chancellor shall order Copy of any order for annuity to be laid before house of commons.

any annuity to be paid to any officer whatsoever of the court of chan- No. VIII cery, by virtue of any authority vested in him for that purpose, the said 3 & 4 W. 4, lord chancellor shall cause a copy of every such order to be laid on the table of the house of commons within the periods herein-before men-

c. 94.

LIII. That this act shall come into operation, as to the office of clerk Commenceof the affidavits, and the duties therein and incident thereto, imme-ment of act. diately after the passing of this act, and as to all other matters herein contained, on the twenty-sixth day of November one thousand eight hundred and thirty-three.

The SCHEDULE herein-before referred to.

						Salary.
The First Registrar	•	•			•	£2,000 per Ann.
Second Do	•	•		•	•	1,800
Third Do	•	•		•	•	1,800
Fourth Do		•	•			1,500
Fifth Do	•			•	•	1,500
Sixth Do	,	•	•			1,250
The First Clerk to the Registrars				•	•	800
Second			•		•	800
Third						600
Fourth .				-		600
Fifth		•	-	. (•	400
Sixth .				-		400
Seventh	_	•	·	_		300
Eighth				•		300
Master of Reports and Entric	28		•	_	•	1,000
Clerk of Reports				•	•	200
First Clerk of Entries .		•	•		•	150
Second	•	•		•	•	100
First Clerk of Accounts		•	•		•	500
Second	•	•		•	•	400
Third		•	•		•	350
Fourth	•	•		•	•	300
Fifth		•	•		•	250
Sixth	•	•		•	•	200
Seventh .		•	•		•	150
Eighth	•	•		•	•	150
Ninth		•	•		•	150
Tenth	•	•		•	•	100
Clerk of Affidavits		•	•		•	500
Assistant Clerk to Do	•	•		•	ě	
	tha M	Latora iz		dinom	• ``	150
To the Chief Clerk of each of other than the Accountant			ı OI	шнагу	' }	1,000
				•	•)	150
To the junior Clerk of each of the Two Examine					•	150
			L	•	•	700
To the Clerk of each of the E	MIMBX	ELR	•		•	150

[No. IX.] 4 & 5 W. IV. c. 68.—An Act to authorize an advance out of the general Fund of Monies belonging to the Suitors of the Courts of Chancery and Exchequer in Ireland, towards the Purchasing of Ground and Building thereon Offices necessary to the Courts of Justice in Dublin.

[No. X.] 4 & 5 W. IV. c. 78.—An Act for the Amendment of the Proceedings and Practice of the High Court of Chancery in Ireland. [14th August 1834.]

WHEREAS it is expedient that the laws relating to entering appearances and taking bills pro confesso in the high court of chancery in Ireland should be amended, and that the costs and expences of proceedings in the said court should be diminished, and that increased facilities should be afforded for the dispatch of business therein: Be it therefore enacted, &c., That where any defendant to any suit instituted has been served in the said court shall be duly served in Ireland with process of subpæna to appear and answer in such suit, and shall refuse or neglect to and neglects to appear thereto, an appearance shall and may, after the expiration of eight days, exclusive of Sundays and holidays, from the due service of such subpœna, be entered for such defendant, at the instance of the plaintiff, in such manner and form as the court, by any general order or may be entered orders to be made in pursuance of this act, shall direct; and that thereupon such further proceedings may be had in the cause as if the defendant had actually appeared.

ings had. Rule books of open upon all days except Sundays and

holidays.

If a defendant

with process.

appear after

an appearance

and proceed-

eight days,

II. And whereas it is expedient, for the further diminishing the exthe court to be pence of suits in the said court, that an alteration should be made in the practice of the said court by abolishing petitions as herein-after provided; be it therefore enacted, That from and after the commencement of this act the rule books of the said court shall be deemed open in the registrar's office of the said court upon all days of the year except Sundays and holidays, and accordingly that all side bar rules and rules of course shall be entered in the said rule books upon all days of the year, except Sundays and holidays, without petition, in like manner as the same are now respectively entered in the said books during the sittings of the court, or in such form and manner as the said court by any general order or orders to be made in pursuance of this act shall direct.

Motion books ing the sitting of the court; and orders may be made without petition.

III. That from and after the commencement of this act the motion to be open dur- books of the said court shall be deemed open in the registrar's office of the said court during the sittings of the court, and accordingly that all orders to be made in open court in causes, including motions to vacate recognizances, or in causes and matters, shall henceforth during the sitting of the court be made and entered without petition, except in such cases as from their nature or by statutory enactments require a petition to be preferred, or unless the court shall, for special reason in any particular case, require a petition to be preferred.

Decrees and orders of the court.

IV. That any person shall be at liberty to take an office copy of so much only of any decree, order, report, or exceptions as he may require, and that, unless the court shall otherwise specially direct, no recitals shall be introduced in any decree or order of the said court, but the pleadings, petition, notice, report, evidences, affidavits, exhibits, or other matters or documents on which such decrees or orders shall be founded shall merely be referred to; and it shall be lawful for the lord chancellor, if he shall think fit, with the advice and assistance of the master of the rolls, to make and issue such rules and regulations as to the form of such decrees and orders as he may deem necessary or proper for the proper drawing up of such decrees and orders, and carrying into effect the provisions of this act in regard thereto.

Sales or mortcrees or orders of the court.

V. That where any decree or order of the said court shall direct any gages under de- sale, mortgage, or other dispositions of lands, or any other property whatsoever, to be had before any master, or any other officer of the said court, it shall and may be lawful for such master or other officer of the said court to proceed and sell, and such master and other officer is hereby required to proceed and sell, in pursuance of such decree or order, the subject matter thereby directed to be sold, upon production

order.

of the attested copy of such decree or order signed by the register, and without in any way requiring an enrolment or exemplification of such 4 & 5 W. 4, decree or order to be produced to warrant the sale, mortgage, or other disposition by the decree or order directed.

VI. That in all cases the service of an attested copy of any decree or Service of an order of the said court shall be a sufficient service thereof to warrant an attested copy attachment and all subsequent proceedings for not complying with such of a decree to decree or order; and that it shall and may be lawful for the court to be sufficient to proceed by attachment or otherwise as it shall deem proper, upon the warrant attachservice of such attested copy, without requiring an exemplification of ment. such decree or order to be served as a warrant for any attachment or subsequent proceeding for not complying with such decree or

VII. That the court may, on petition, appoint a receiver of the real The court may and personal estate of a minor or minors without a bill being filed for appoint a rethat purpose; and that in all cases in which a receiver shall be appointed ceiver of estates on petition, it shall and may be lawful for the court to make all such of minors. orders as may be necessary from time to time for the recovery of the rents or for the setting of the lands and premises over which such receiver shall be appointed, as fully and effectually as if such receiver had

been appointed under a bill filed.

VIII. That when any person who has been or shall be directed by If any person any decree or order of the said court to execute any deed or other in-neglects to exestrument, or make a surrender or transfer, or to levy a fine, or suffer a cute any deed recovery, if it shall appear upon affidavit or affidavits to be made to the or transfer, the satisfaction of the court that such person refuses, declines, or neglects court may order to execute same, it shall and may be lawful for the court, after the expi- a master in orration of ten days from the service of the decree or order personally, and dinary to exe-tender of such deed or instrument for execution, to make an order man. tender of such deed or instrument for execution, to make an order, upon motion in open court, that one of the masters in ordinary of the said court shall execute such deed or other instrument, or make such surrender or transfer, or levy such fine, or suffer such recovery, in the name of such person, and do all acts necessary to give validity and operation to such fine and recovery, and to lead or declare the uses thereof; and the execution of the said deed or other instrument, or the surrender or transfer, made by the said master, and the fine or recovery levied or suffered by him, shall in all respects have the same force and validity as if the same had been made or executed, levied or suffered by the party himself.

IX. That from and after the commencement of this act it shall and The deputy may be lawful for the deputy keeper of the rolls for the time being, and keeper of the also for the clerk of the involments for the time being, and the persons rolls or clerk of who shall hereafter be appointed from time to time to the said offices inrolments may respectively, and they are hereby respectively fully authorized, empowered, and required, to administer the oaths, and take the affirmaoaths and take
tions and attestations of honour which may be required by the practice tions and attestations of honour, which may be required by the practice of the said court, to all pleadings to be filed or lodged in the rolls office of the said court, and also to administer the proper and necessary oaths and affirmations to the returns of all commissions to take such pleadings, in like manner and to the like extent as the masters in ordinary of the said court, and the several clerks and examiners of the said masters, are now authorized to administer the same, any thing contained in an act passed in the sixth year of the reign of his late Majesty king George 6 G. 4, c. 30. the fourth, intituled An Act to amend an Act of the Fourth Year of his present Majesty's Reign, for the better Administration of Justice in the Court of Chancery in Ireland, to the contrary notwithstanding; and that Masters in ordithe said masters in ordinary, and their clerks or examiners, shall no nary and their longer administer the said oaths or take the said affirmations or attes- clerks not to tations of honour, without prejudice to their rights and jurisdictions to administer administer oaths and take affirmations and attestations of honour to all oaths. documents or proceedings not herein specified: Provided always, That Proviso for the the deputy keeper of the rolls, or clerk of the involments in the absence deputy keeper

No. X. c. 78. of the rolls inrolments.

Persons swear-

ing before de-

clerk of involments to be

subject to pe-

Stamp duties

4 G. 4, c. 70,

to continue to

be collected.

imposed by

nalties for

perjury.

of the deputy keeper of the rolls, shall not be required, except under 4. & 5 W. 4, special order of the court, to go out of his office to administer the said oaths or take the said affirmations or attestations of honour pursuant to this act; and provided also, That whenever either of the said officers shall be required by any order of the court to attend out of the said and clerk of the office for the purposes aforesaid, the charge for every such attendance of the deputy keeper of the rolls or clerk of the involments, as the case may be, together with the rate of his travelling expences, if any, shall be expressed in such order of the court; and that it shall and may be lawful for the said deputy keeper of the rolls or the clerk of the inrolments respectively to receive such sum for his attendance, and also such rate of travelling expences, as shall be expressed in such order of the court, and no other or greater sum.

X. That all persons swearing to, affirming, or attesting the said documents or any of them before the said deputy keeper of the rolls, or before puty keeper or the said clerk of the inrolments, as the case may be, shall be liable to all such penalties, punishments, and consequences for any wilful and corrupt false swearing or perjury contained therein, as if the same had been sworn, affirmed, or attested before the said court of chancery, or all or any of the masters in ordinary thereof.

XI. That all and every the stamp duties imposed and enacted by the act made in the fourth year of the reign of his late Majesty king George the fourth, intituled An Act to grant additional Stamp Duties on certain Proceedings in the Court of Chancery and in the Equity Side of the Court of Exchequer in Ireland, and the schedule thereto annexed, shall continue and be collected and enforced as to the said documents and every of them as fully and effectually as if the said last-mentioned act were reenacted and expressly applied to the said documents and each of them when transacted as part of the business of the deputy keeper of the rolls, or clerk of the involments, as the case may be.

Masters in orered to hear to the conduct of suits, and to direct the payment of costs.

XII. That the said masters in ordinary of the said court shall have dinary empow- authority to hear and determine and make orders upon all such matters relating to the conduct of suits in their respective offices as the lord matters relating chancellor with the advice and assistance of the master of the rolls, by any general order or orders, shall direct; and that it shall and may be lawful for the said masters to order and direct that the costs of all or any of the parties upon any proceedings before them shall be costs in the cause or matter, or to be forthwith paid by and to such person or persons as they shall deem just, or to award such liquidated sum by way of costs to any of the parties as they shall think reasonable, and to be paid by such person or persons or out of such fund as they shall deem just; and the said master shall cause all such orders to be drawn up in a short form, and when signed shall cause the same to be entered in books to be kept for that purpose exclusively in their respective offices; and all such orders, if not reversed or varied, shall be as binding as an order of the court itself, and the costs awarded thereby shall be recovered in like manner as costs directed to be paid by the court itself.

Depositions. General orders.

XIII. That henceforth all depositions of witnesses examined in the said court shall be taken in the first person, and in no other form; and that it shall and may be lawful for the lord chancellor, by and with the advice and assistance of the master of the rolls, to make and issue such general orders as he shall think fit for abolishing or altering any writ or writs of process, or any pleading or course of proceeding in suits now pending or hereafter to be commenced in the said court; and that it shall and may be lawful for the lord chancellor, with the advice and assistance of the master of the rolls, and he is hereby required, forthwith to make and issue such general orders as he shall think fit for carrying the provisions of this act into execution; and also such other rules and orders. not being inconsistent with the enactments and provisions of this act, as he, with the advice and assistance of the master of the rolls, shall think fit and proper for simplifying, establishing, and settling the course of practice of the said court and of its several offices.

XIV. That the lord chancellor, by and with the advice and assistance of the master of the rolls, shall be and he is hereby authorized and em- 4 & 5 W. 4. powered, by any general order or orders to be made and issued by him from time to time, to annul, alter, or vary any general order or orders which may have been so as aforesaid made and issued, and to make any General orders new general order or orders for the purposes herein-before mentioned, may be varied. or any of them.

XV. That the several offices of the said court of chancery shall be Hours of busiand continue open for the dispatch of business upon such days of the ness in the seyear and during such hours in the day, and that the officers and clerks veral offices. belonging thereto respectively shall attend in such offices in the discharge of their several duties during such times and for such number of hours in each day, as the lord chancellor, with the advice and assistance of the master of the rolls, shall by any general order or orders to be issued from time to time direct; and that the officers and clerks in the said respective offices shall give their personal attendance in their respective offices in the discharge of their official duties during the times they shall so as aforesaid be directed to attend, unless otherwise engaged in the business of their respective offices, or unless prevented by sickness or other unavoidable cause: Provided always, That where any office can be legally executed by deputy, nothing herein contained, or in any order to be made in pursuance thereof, shall be construed to compel the principal to

attend in person.

XVI. That each of the said masters in ordinary of the high court of Masters in orchancery shall, within the first four days of Michaelmas term in each dinary to report and every year, present or cause to be presented to the lord chancellor a certain particureport in writing, under the hand of such master, stating the days on lars annually to which he shall have attended at his office, for and during twelve months the lord chanpreceding such return, in the performance of his duty, specifying the number of hours occupied in each of such day's attendance as aforesaid, and further, that each such master shall annex to such his report a list or schedule, to be signed by him in like manner, of the several causes, petitions, or matters of every description then pending in his office, showing the then state and stage of the same respectively, designating each cause, petition, or matter by the name or names of the party or parties thereto, or some of them, with the name or names of each solicitor engaged therein, and also the state of the account of each receiver, committee of a lunatic, or guardian of an infant, whose accounts are passed in his office, and the balance (if any) remaining in the hands of such receivers, committees, and guardians respectively; and thereupon it shall be lawful for the said lord chancellor to make and issue such order for filing or depositing and otherwise giving publicity and access to such list or schedule as he in his discretion shall think fit.

XVII. That no person shall be compelled or required to take or pay Persons not for any copy of any paper or document being in any office of the said compelled to court; and that every person shall be at liberty to take out and pay for pay for the enonly so much or such part of any paper or document being in any office tire copy of a of the said court as such person may require, without being in any case paper when recompelled to take out or pay for the entire of the paper or document quiring only a being in the office.

portion of it.

XVIII. That the powers and authorities given by this act to the lord Powers given high chancellor of Ireland shall and may be exercised in like manner to the lord and are hereby given to the lord keeper or lords commissioners for the chancellor may custody of the great seal of Ireland respectively for the time being.

be exercised by

XIX. And whereas by an act passed in the parliament of Ireland, in the lord keeper. the twenty-third and twenty-fourth years of the reign of his late Majesty 24 G. 3. (I.) king George the third, intituled An Act for the better securing the Monies and Effects of the Suitors of the Court of Chancery and the Court of Exchequer by depositing the same in the National Bank, and to prevent the forging and counterfeiting any Draft, Order, or other Voucher for the Payment or Delivery of such Money or Effects, or other Purposes, it was enacted, that all the monies and cash that shall be paid into and deposited

No. X.

Part of the suitors fund to be set apart for a compensation fund.

fund to be placed to the account of the accountant-general in the bank of Ireland.

called in.

Surplus of interest to be invested in gorities.

Lords of the treasury may sation to six clerks and other officers. 4 G. 4, c. 61.

in the said bank on account of the suitors of the said court of chancery, 4 & 5 W. 4. or by order of the said court, shall be accounted and taken to be one common or general fund, and to be issued and payable as the court of chancery shall direct: And whereas from many years experience it hath been found that there always hath been a very large sum of money belonging to the suitors of the court of chancery in Ireland lying in the said bank unproductive to the suitors of the said court: And whereas it is expedient that a part of the said money belonging to the suitors of the said court should be rendered productive for the purposes herein-after mentioned; be it therefore enacted, That out of the cash belonging to the suitors of the said court of chancery which now lies in the bank of Ireland unproductive to the suitors a sum of two hundred thousand pounds shall and may, by any order or orders of the said court, be invested in one entire sum, or in parcels, in such government or parliamentary securities as in and by such order or orders shall be directed, and be placed to an account to be intituled "An Account of the Compensation and Fee Fund of the Suitors of the Court of Chancery in Ireland," to the intent that the interest and annual profits arising from the money so to be placed out as aforesaid may be applied for the purposes herein-after mentioned; and it shall be lawful for the said court, from time to time, by any order or orders to be made for the purpose, to change the security or securities on which the said money shall be invested.

XX. That the interest and annual produce arising from the securities Produce of the in which the said sum of two hundred thousand pounds shall be invested shall from time to time be received by the governor and company of the bank of Ireland, and placed to the credit of the accountant general of the said court, in an account to be opened and called "An Account of the Interest and Produce of the Compensation and Fee Fund of the Suitors of the Court of Chancery in Ireland;" the same to be issued

and applied pursuant to the directions of this act.

XXI. That if at any time the whole or any part of the said sum of Court of chan- two hundred thousand pounds shall be wanted to answer any of the decery may direct mands of the suitors of the said court of chancery, then and in such the same to be case the court may and shall direct the same or any part thereof to be called in, or the securities on which the same shall be placed to be disposed of, in order that the suitors of the said court may at all times be paid their respective demands out of the common and general cash

belonging to such suitors.

XXII. That the surplus interest and produce of the monies carried to the said account called "An Account of the Interest and Produce of the Compensation and Fee Fund of the Suitors of the Court of Chancery in Ireland," beyond what shall be sufficient to answer the purposes vernment secu- of compensation under this act, and also the interest produced from the securities purchased with such surplus interest and produce, shall from time to time, by like order or orders of the said court, be invested in the purchase of government or parliamentary securities, and carried to the account called "An Account of the Interest and Produce of the Compensation and Fee Fund of the Suitors of the Court of Chancery in Ireland;" the same to constitute part of said fund to be issued and applied pursuant to and according to the directions of this act.

XXIII. And whereas the six clerks of the said court are entitled to sell their respective offices, and all the present six clerks, save John Brenan. have purchased their said respective offices for large sums of money, make compen-since the passing of an act in the fourth year of the reign of king George the fourth, intituled An Act for the better Administration of Justice in the Court of Chancery in Ireland, and have paid into his Majesty's exchequer in Ireland, to the use of the public, one-fifth part of the said purchase-money: And whereas it is alleged that the income and emoluments of the respective six clerks, and of certain other officers of the said court, have been diminished in consequence of certain orders, bearing date the thirty-first day of January one thousand eight hundred

No. X. c. 78.

and thirty-four, and will be further diminished by the operations of this act, and of the general orders to be made in pursuance thereof, for 4 & 5 W. 4, which the said six clerks and other officers claim to have compensation made: And whereas it is reasonable and just that the six clerks of the said court, being purchasers of and entitled to sell at pleasure their respective offices, should receive for any diminution of annual income, and also for any depreciation of purchase value of their offices, full and adequate compensation; and also that such of the other officers of the said court as the lord high treasurer or the commissioners of his Majesty's treasury as herein-after provided shall think entitled thereto should also receive compensation for lawful fees and emoluments diminished or taken away from the said six clerks and other officers by the operation of the said general orders of the thirty-first day of January one thousand eight hundred and thirty-four, and of this act, and any general order or orders to be made in pursuance thereof; be it therefore enacted, That it shall be lawful for the lord high treasurer or commissioners of his Majesty's treasury for the time being, or any three or more of them, by warrant or warrants under their hands, to order and direct that such compensation shall be made to the said six clerks respectively, and to such other officers who now hold office in or belonging to the said court, and whose lawful fees and emoluments have been or shall be diminished by the operation of the said orders of the thirtyfirst day of January one thousand eight hundred and thirty-four, or by this act, or any general order or orders to be made in pursuance thereof, as to the said lord high treasurer or the said commissioners of his Majesty's treasury in their discretion shall seem just and reasonable; Provided always, that an account or accounts of all such compensations shall, within fourteen days next after the same shall be so granted, be laid upon the table of the house of commons, if parliament shall be then assembled, or if parliament shall not be then assembled, then within fourteen days after the meeting of parliament then next following; and provided also, that such warrant or warrants for compensation shall not be valid until after the expiration of three weeks from the time the account or accounts of compensation shall be laid before parliament.

XXIV. And whereas for the better enabling the lord high treasurer Commissioners or the commissioners of his Majesty's treasury to form a correct judg- to settle ment of the nature and amount of the compensations which it may be amount of comreasonable and proper to make to the officers who shall claim compen- pensation. sation for fees and emoluments taken away or diminished as aforesaid, be it enacted, That it shall be lawful for the lord high treasurer or the commissioners of his Majesty's treasury for the time being, or any three or more of them, if he or they shall think fit, to refer all and every the accounts and claims for compensation to the examination and consideration of so many persons to be commissioners for carrying this act into execution and effect as may to him or them appear fit and necessary, and every three or more of the commissioners to be so appointed shall

be competent to act in the execution thereof.

XXV. That the lord high treasurer and the commissioners of his Majesty' treasury, or any three or more of them, and also the commis- Lords of the sioners or any three or more of them to be appointed under this act, treasury and shall be authorized to inquire and examine as well into all acts, matters, commissioners and things for which any fee or emolument has been received or claimed, to inquire into and the legality thereof, as well as the amount of the fees or emoluments contained in any account to be furnished under this act, and of all disbursements and allowances made in respect of business performed in the offices respectively, and of all charges affecting the same, and to require proof to be made upon oath, either personally or in writing, of any matter, and to examine any such officer or other person upon oath as to any matters into which the lord high treasurer or the said commissioners may think proper or necessary to inquire, which oath may be administered either by the lord high treasurer or the commissioners of his Majesty's treasury, or any three or more of them, or by the com-

No. X.

missioners to be appointed under this act, or any three of them, or by a 4 & 5 W.4, judge or master in ordinany of the said court; and also to cause the production for his or their inspection and examination of all books, papers, and other documents which he or they shall deem requisite for the purposes of this act; and also that it shall be lawful for him or them to consult the lord chancellor or the master of the rolls upon the legality, propriety, and reasonableness of any fees or matters connected therewith; and the lord chancellor or master of the rolls shall and is hereby required to give his advice and opinion thereon, in writing, as early as the same can reasonably be done.

Commissioners refer accounts to masters in ordinary.

XXVI. That it shall be lawful for the lord high treasurer or any three of treasury may or more of the commissioners of his Majesty's treasury, if he or they shall deem it proper so to do, to refer all or any accounts to be furnished under this act to any one or more of the masters in ordinary of the said court, who shall by all the ways and means herein-before provided inquire into and examine the same, and shall fairly settle and certify in writing to the lord high treasurer or the commissioners of his Majesty's treasury the net and gross amount of the fees and emoluments and the disbursements of every kind to which such accounts relate.

Officers claimmg compensation to make a return of the profits of their office,

XXVII. That every officer of the said court who shall claim compensation under this act shall within three calender months next after the commencement of this act make or cause to be made out and rendered to the lord high treasurer or the commissioners of his Majesty's treasury, or, if so required, to the commissioners to be appointed under this act, an account in writing of the gross and net emoluments, and also of the disbursements of his office in each of the three years next preceding the first day of November one thousand eight hundred and thirty-three, and also an account of all lawful fees, salary, compensation, emoluments, or allowances of whatever nature as shall have been received during the said three years by the said officer, or for his use, or which upon any account or in any way shall have become due in respect of such office or the duties thereof, and shall also set forth a particular of the several and respective acts, matters, and things in respect of which any fee or emolument shall have been received, charged, or claimed; and also a particular of all allowances and disbursements made thereout, and charges affecting the same, in each of the said three years, with such further particulars of receipt and disbursements as the lord high treasurer or any three or more of the commissioners of his Majesty's treasury or of the commissioners to be appointed under this act shall direct, the said accounts to be verified on oath, to be sworn before one of the masters of the said court, which oath the said master is hereby authorized and required to administer; and the lord high treasurer or the said commissioners as aforesaid shall ascertain by all proper ways and means as aforesaid the gross and net annual value, according to a fair average of the said three years, of the said lawful fees and emoluments, and also the disbursements of such officer as aforesaid.

Officers may make an annual return of the profits of their office.

XXVIII. That it shall be lawful for every officer claiming compensa as herein-before mentioned, on the first day of Hilary term one thousand eight hundred and thirty-six, and on every succeeding first day of Hilary term, and for one month thereafter in each year respectively, so long as the said officer shall hold his office, to make or cause to be made out, and render to the lord high treasurer or the commissioners of his Majesty's treasury, an account in writing, to be verified in like manner, of the gross and net emoluments of the said office, and of the disbursements thereof, in such form and with such particulars of receipt and otherwise as the lord high treasurer or the commissioners of his Majesty's treasury, or any three or more of them, shall require; and also an account of all such lawful fees, salary, compensation, emoluments, and allowances, of whatever nature, as shall have been received by the said officer, or for his use, or which upon any account or in any way shall have become due in respect of such office, or the duty thereof, and

No. X.

c. 78.

the several and respective acts, matters, and things in respect of which the same shall have been received or claimed, and a particular of all 4 & 5 W. 4, allowances and disbursements made thereof, and charges affecting the same, in and for the year next preceeding the first day of Hilary term in each succeeding year, as herein-before required; and the lord high treasurer or the said commissioners as aforesaid shall ascertain as they shall think proper the gross and net income of such office, and also the disbursements thereof, for and during the year for which such account shall be rendered, and the amount of compensation to which he or they shall deem such officer entitled for and during the said year.

XXIX. That every officer and other person who shall swear falsely to Officers swearany matters respecting which an oath, either personally or in writing, is ing falsely to hereby required or authorized to be made, and shall be convicted of so be guilty of doing wilfully and corruptly, shall be deemed guilty of wilful and cor- perjury.

rupt perjury, and shall suffer the pain and penalty of that offence.

XXX. That when the said commissioners to be appointed under this Commissioners act shall have ascertained the gross and net value of the fees and emo- to certify value luments of such offices and employments, or any of them, computed as of officers to aforesaid, together with the particulars of the disbursements, allow-lords of the ances, and charges constituting the difference between such gross and treasury. net annual value, they shall from time to time certify the same under their hands to the lord high treasurer or commissioners of his Majesty's treasury for the time being, who shall lay copies of the same, as also of all like certificates made by the lord high treasurer or the commissioners of the treasury under this act, before both houses of parliament.

XXXI. That the several and respective sums as and for compensation If fund not sufwhich the lord high treasurer or the commissioners of his Majesty's ficient, the retreasury shall, by warrant or warrants as aforesaid, order and direct to mainder to be be paid to any officer of the said court shall be paid and payable to the paid out of the officer or officers named in such warrant or warrants out of the account fund. called "An Account of the Interest and Produce of the Compensation and Fee Fund of the Suitors of the Court of Chancery in Ireland," as far as the same will extend; and in case the said suitors fund shall be inadequate to the payment of the whole amount of compensation to be given under this act, the amount of the compensatious beyond what can be satisfied out of the said suitors fund shall be charged upon and paid out of the consolidated fund of the united kingdom, without any fee or deduction whatsoever, to the officer or officers named in the warrant or warrants of the lord high treasurer or the commissioners of his Majesty's treasury as aforesaid.

XXXII. That no payment or transfer of any sum or sums of money Payments not to be made under or by virtue of this act, or any of the provisions to be liable to thereof, shall be subject or liable to the payment of usher's poundage; usher's and provided also, that every order to be made for the transfer, invest-poundage. ment, or payment of any money under this act or any of the provisions thereof shall be free of and discharged from the payment of any fee whatsoever to any officer of the said court.

XXXIII. That in case any officer of the said court entitled to com- If officer dies pensation under this act shall die or resign or be dismissed from his pending inquiry office or employment before the termination of any year, the executors his executors or administrators of the person so dying, or the person himself so re- to make signing or dismissed, shall render such account as aforesaid for such returns. part of the year during which the person so dying or resigning or dismissed shall have held such office or employment, and shall be entitled to claim and receive such sum proportioned to that part of the year during which such person shall have held his said office as the lord high treasurer or any three of the commissioners of his Majesty's treasury for the time being shall deem just and proper.

XXXIV. And whereas it is alleged that the purchase value of the Six clerks selloffice of six clerk in the said court will be diminished by the operation ing their office of this act and the general orders to be made in pursuance thereof; be may receive it therefore enacted, That if any six clerk shall after the commencement

No. X. c. 78.

compensation tion of value.

of this act sell his said office, it shall be lawful for him at any time 4 & 5 W. 4 within six calendar months after such sale to apply to the said lord high treasurer or the commissioners of his Majesty's treasury for compensation for such diminution of value, and in such case it shall and may be lawful for the lord high treasurer, or the commissioners of his Majesty's for the diminu- treasury, or such commissioners as shall be appointed by them under this act, to examine into such application and claim by all and every or such means as herein-before provided as he or they shall think proper, and thereupon it shall be lawful for the said lord high treasurer and the commissioners of his Majesty's treasury, or any three of them, to order and direct that such annual or other compensation shall be made to the six clerks claiming the same as he or they in their discretion shall upon full inquiry deem just and reasonable; and all such compensation, whether annual or in gross, shall be charged upon and paid and payable out of the consolidated fund of the united kingdom of Great Britain and Ireland without any fee or deduction whatsoever.

vent dismissal of officers.

XXXV. That nothing herein contained shall be construed to prevent Act not to pre- any person now holding any office or employment, or that shall hereafter hold any office or employment in the said court, from being dismissed therefrom, as if this act had not been made, or to give him any greater or other interest in such office or employment than he might have lawfully claimed or exercised if this act had not been made.

Officers herenot to be entitled to compensation.

XXXVI. That no person who after the passing of this act shall be appointed to any office or employment in or belonging to the said court after appointed shall be deemed entitled to prefer any claims for or to obtain any compensation in respect of any alteration of any kind whatsoever which shall be made by lawful authority in the constitution, process, practice, pleadings, or other proceedings, or in the constitution, duties, or emoluments, of any of the offices or employments in the said court.

Commencement of act.

XXXVII. That this act, and the several provisions therein contained, shall commence and take effect from the first day of Hilary term one thousand eight hundred and thirty-five.

[No. XI.] 4 & 5 W. IV. c. 82.—An Act to amend and extend an Act of the Second Year of His present Majesty, to effectuate the Service of Process issuing from the Courts of Chancery and Exchequer in England and Ireland.

[15th August 1834.]

2 W. 4. c. 33. WHEREAS by an act passed in the second year of the reign of his

present Majesty, intituled An Act to effectuate the Service of Process issuing from the Courts of Chancery and Exchequer in England and Ire. land respectively, certain provisions have been made for rendering more effectual the process of the said courts respectively in the cases therein mentioned: And whereas it is expedient to amend and extend the said act in the manner herein-after provided: Be it therefore enacted, &c., That all the provisions contained in the said act relating to suits instituted in the said courts respectively concerning lands, tenements, or hereditaments situate in England or Wales or in Ireland respectively. shall be extended and applied to all suits instituted in the said courts lands extended respectively concerning any charge, lien, judgment, or incumbrance thereon, or concerning any money vested in any government or other public stock, or public shares in public companies or concerns, or concerning the dividends or produce thereof; and the provisions in the said act authorizing the said courts respectively to direct that the service in any part of the united kingdom of Great Britain or Ireland, or the Isle of Man, respectively, of any subpœna or subpœnas, letter missive or letters missive, and of all subsequent process to be had thereon, upon any defendant or defendants in such suit, then residing in such

Provisions of recited act relating to suits concerning to suits concerning charges or liens on lands.

No. XI.

c. 82.

parts of the united kingdom or the Isle of Man in which he, she, or they should be so served, should be deemed good service of or be made 4 & 5 W. 4, upon such defendant or defendants, upon such terms, and in such manner, and at such time as to such courts respectively should seem reasonable, and that thereupon it should and might be lawful for such courts respectively to proceed upon such service as fully and effectually as if the same had been duly made within the jurisdictions of such courts respectively, shall be and they are hereby extended to any defendant or defendants in any such suit or suits as herein-before mentioned, who shall appear by affidavit to be resident in any place, specifying the same, out of the united kingdom of Great Britain and Ireland; and that it shall and may be lawful for the said courts respectively, on motion in open court of any of the complainants in any such suit, founded upon an affidavit or affidavits, and such other documents as may be applicable, for the purpose of ascertaining the residence of the party, and the particulars material to identify such party and his residence, and also specifying the means whereby such service may be authenticated, and especially whether there are any British officers, civil or military, appointed by or serving under his Majesty residing at or near such place, to order that service of a subposna to appear and answer upon the party in the manner thereby directed, or, in case where the said courts respectively shall deem fit, upon the receiver, steward, or other person receiving or remitting the rents of the lands or premises, if any in the suit mentioned, returnable at such time as the said courts respectively shall direct, shall be deemed good service of such party, and afterwards, upon an affidavit of such service had, to order an appearance to be entered for such party in such manner and at

pectively. II. That where it shall appear upon affidavit, to be made to the satis- Service of subfaction of the said courts respectively, that any defendant in any such pænas in cases suit as herein-before mentioned cannot by reasonable diligence be per- where defendsonally served with the subpœna to appear and answer, or that upon ants cannot be inquiry at his usual place of abode he could not be found so as to be found. served with such process, and that there is just ground for believing that such defendant secretes or withdraws himself so as to avoid being served with the process of such court, then and in all such cases it shall and may be lawful for the court to order that the service of the subpœna to appear and answer shall be substituted in such manner as the court

such time as the said courts respectively shall direct, and that thereupon it shall and may be lawful for such courts respectively to proceed upon such service so made as aforesaid as fully and effectually as if the same had been duly made within the jurisdictions of such courts res-

shall think reasonable and direct by such order.

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[No. XII.] 5 & 6 W. IV. c. 16.—An Act for altering and amending the Law regarding Commitments by Courts of Equity for Contempts, and the taking Bills pro Confesso in [30th July 1835.] Ireland.

WHEREAS it is expedient to amend the law regarding commitments by courts of equity for contempts, and the taking bills pro confesso, in Ireland; be it therefore enacted, &c., That the marshal of the mar- Marshal of the shalsea of the four courts prison shall keep a register of the names of all four courts pripersons committed by the courts of equity for contempts, stating the son to keep a dates and the grounds of their several commitments, and the dates of register of pertheir respective discharges, and shall, on the twentieth day of January, for contempts, the twentieth day of April, the twentieth day of July, and the twentieth and report four day of October, in every year, make a report to the lord chancellor of the names and descriptions of such prisoners in his custody on each of the lord chancellor days respectively. such days respectively, with the causes and dates of their respective cellor. commitments.

No. XII. c. 16. appearing within the subpoena or other process has been insued.

II. And whereas sometimes persons have withdrawn themselves 5 & 6 W. 4, beyond the seas, or otherwise absconded, to avoid appearing in courts of equity, or being served with process for that purpose, or being brought into court by habeas corpus, have refused to appear; for Manner of pro- remedy of the inconvenience thence ensuing, be it further enacted, That ceeding in case if in any suit, not being for the foreclosure of a mortgage, which hath of persons not been or hereafter shall be commenced in any court of equity, any defendant against whom any subpœna or other process shall issue shall not cause his appearance to be entered upon such process within such usual time after time and in such manner as according to the rules of the court the same ought to have been entered in case such process had been duly served, and an affidavit or affidavits shall be made to the satisfaction of such court that such defendant is beyond the seas, or that upon inquiry at his usual place of abode he could not be found so as to be served with such process, and that there is just ground to believe that such defendant is gone out of the realm, or has otherwise absconded, to avoid being served with the process of such court, then and in such case the court out of which such process issued may make an order directing and appointing such defendant to appear at a certain day therein to be named; and a copy of such order shall, within fourteen days after such order made, be inserted in the Dublin Gazette, and published on some lord's day immediately after divine service in the parish church where such defendant made his usual abode within thirty days next before such his absenting, and also a copy of such order shall within the time aforesaid be posted up in some public place at the Royal Exchange in Dublin; and if the defendant do not appear within the time limited by such order, or within such further time as the court shall appoint, then, on proof made of such publication of such order as aforesaid, the court, being satisfied of the truth thereof, may order the plaintiff's bill to be taken pro confesso, and make such decree thereupon as shall be thought just, and may thereupon issue process to compel the performance of such decree, either by an immediate sequestration of the real and personal estate and effects of the party so absenting (if any such can be found), or such part thereof as may be sufficient to satisfy the demands of the plaintiff in the said suit, or by causing possession of the estate or effects demanded by the bill to be delivered to the plaintiff, or otherwise, as the nature of the case shall require; and the said court may likewise order such plaintiff to be paid and satisfied his demands out of the estate or effects so sequestered, according to the true intent and meaning of such decree, such plaintiff first giving sufficient security in such sum as the court shall think proper to abide such order touching the restitution of such estate or effects as the court shall think proper to make concerning the same upon the defendant's appearance to defend such suit, and paying such costs to the plaintiff as the court shall order; but in case such plaintiff shall refuse or neglect to give such security as aforesaid, then the said court shall order the estate or effects so sequestered, or whereof the possession shall be decreed to be delivered, to remain under the direction of the court, either by appointing a receiver thereof, or otherwise, as to such court shall seem meet, until the appearance of the defendant to defend such suit, and his paying such costs to the plaintiff as the said court shall think reasonable, or until such order shall be made therein as the court shall think just. III. Provided always, That if any person against whom any decree

Persons in custody so neglecting to be served with a copy of the decree.

forthcoming, so that he may be served with a copy of such decree, then he shall be served with a copy thereof before any process shall be taken out to compel the performance thereof.

IV. Provided also, That if any decree shall be made in pursuance of this act against any person being out of the realm, or absconding in fected by such manner aforesaid, at the time such decree is pronounced, and such perdecrees, if they son shall within seven years after the making such decree return or be-

shall be made upon refusal or neglect to enter his appearance, or appoint

a clerk in court or attorney to act on his behalf, shall be in custody or

Persons out of the realm afcome publicly visible, then and in such case he shall likewise be served with a copy of such decree within a reasonable time after his return or 5 & 6 W. 4, public appearance shall be known to the plaintiff; and in case any defendant against whom such decree shall be made shall within seven years after the making such decree happen to die before his or her return into seven years, to this realm, or appearing openly as aforesaid, or shall within the time last be served with before mentioned die in custody before his or her being served with a a copy, or, in copy of such decree, then his or her heir, if such defendant shall have case of death, any real estate sequestered, or whereof possession shall have been deli-their heirs, &c. vered to the plaintiff, and such heir may be found, or if such heir shall be a feme covert, infant, or non compos mentis, the husband, guardian, or committee of such heir respectively, or if the personal estate of such defendant be sequestered, or possession thereof delivered to the plaintiff, then his executor or administrator (if any such there be), may and shall be served with a copy of such decree within a reasonable time after it shall be known to the plaintiff that the defendant is dead, and who is his heir, executor, or administrator, or where he may be served therewith.

No. XII. c. 16.

V. Provided always, That if any person so served with a copy of such Persons not decree shall not within six months after such service appear and petition petitioning a to have the said cause reheard, such decree so made as aforesaid shall rehearing of the stand absolutely confirmed against the person so served with a copy cause within thereof, his heirs, executors, and administrators, and all persons decree to be claiming or to claim by, from, or under him or any of them by virtue absolutely conof any act done or to be done subsequent to the commencement of any firmed. suit.

VI. Provided always, That if any person so served with a copy of Persons petisuch decree shall within six months after such service, or if any person tioning a renot being so served shall within seven years next after the making such hearing within decree, appear in court and petition to be heard with respect to the mat- seven years, ter of such decree, and shall pay down or give security for payment of and giving sesuch costs as the court shall think reasonable in that behalf, the person admitted to so petitioning, or his representatives, or any person claiming under him answer, and the by virtue of any act done before the commencement of the suit, may be cause to be admitted to answer the bill exhibited, and issue may be joined, and wit- heard again. nesses on both sides examined, and such other proceedings, decree, and execution may be had thereon, as there might have been in case the same party had originally appeared, and the proceedings had then been newly begun, or as if no former decree or proceedings had been in the same cause.

VII. Provided always, That if any person against whom such decree Persons not apshall be made, his heirs, executors, or administrators, shall not within pearing within seven years next after the making of such decree appear and petition to seven years, have the cause reheard, and pay down or give security for payment of and making such costs as the court shall think reasonable in that behalf, such decree such petition, to be absomade as aforesaid shall stand absolutely confirmed against the person lutely barred. against whom such decree shall be made, his heirs, executors, and administrators, and against all persons claiming or to claim by, from, or under him, or any of them, by virtue of any act done or to be done subsequent to the commencement of such suit; and at the end of such seven years it shall and may be lawful for the court to make such further order as shall be just and reasonable, according to the circumstances of the case.

VIII. Provided always, That this act shall not extend or be construed Not to affect to extend to warrant or make good any proceeding against any person persons beyond beyond the seas, unless it shall appear to the satisfaction of the court the seas, unless by affidavit or affidavits, before the making of such decree, that such in certain cases. person had been in Ireland within two years next before the subpæna in such suit issued against such person.

IX. And whereas in many cases persons having privilege of parlia- Appearances ment are named as defendants in suits instituted in courts of equity may be put in against them, either alone or jointly with other persons, for enforcing having privi-

No. XII. 5 & 6 W. 4, c. 16.

lege of parliament in courts of equity, on return of process of sequestration.

In default of answer to bill in equity against persons having privilege of parliament, bill shall be taken pro confesso.

against them demands and duties cognizable in courts of equity, and in some cases such defendants having privileges of parliament have stood out to the return of process of sequestration issued against them for enforcing appearance, and such process of sequestration hath not been found sufficient to enforce such appearance; be it therefore enacted, That from and after the passing of this act, in case any defendant having privilege of parliament shall, upon a return of process of sequestration issued against him for not putting in an appearance to any original or other bill of complaint instituted against him in a court of equity for enforcing discovery and relief, or discovery alone, (as the case may be,) neglect to appear, that then and in such case such court, upon preducing the return of such sequestration in court, may, on the motion or other application of the plaintiff in such cause, appoint a clerk in court to enter an appearance for such defendant so having privilege of parliament, and such proceedings may be thereupon had in the cause as

if the party had actually appeared.

X. And whereas in many cases it is necessary, on the part of the persons having legal rights against persons having privilege of parliament, to proceed by bill in equity against such persons so having privilege of parliament, to obtain from them discovery on oath of facts intended to be used or given in evidence in courts of law against the persons making such discovery; and in cases where such persons having such privilege as aforesaid shall stand out process of contempt, parties entitled to such discovery against them have not sufficient means of compelling or obtaining the same in all cases; be it therefore enacted, That from and after the passing of this act, when any defendant having privilege of parliament shall have appeared to any bill filed against him seeking a discovery upon oath, or when an appearance shall have been entered for such defendant according to the provisions aforesaid, and that such person shall refuse or neglect to put in his answer to such bill within the time for that purpose allowed by the rules and orders of such court, that then it shall and may be lawful for the plaintiff in such suit to apply to the court for an order that such bill shall be taken pro confesso against such defendant, and upon such application such court of equity shall make an order that such bill shall be taken pro confesso, unless the defendant shall within eight days after being served with such order show good cause to the contrary.

Such bill shall be read in evidence as an answer admitting the facts.

XI. That when and so soon as any such order shall have been pronounced by any such court of equity for taking such bill pro confesso, such bill in equity, or an examined copy thereof, so taken pro confesso, shall be taken and read in any court of law or equity as evidence of the facts and matters in things therein contained, in the same manner as if such facts, matters, and things had been admitted to be true by the answer of the defendant put in to such bill; and such bill so taken pro confesso shall be received and taken in evidence of such and the same facts, and on behalf of such and so many persons, as the answer of the defendant to the said bill could and might have been read and received in evidence of in case such answer had been put in by the defendant thereto, and had admitted the same facts, matters, and circumstances as in such bill stated and set forth; and in like manner every other bill of discovery taken pro confesso, under any of the provisions of this act, shall or may be taken and read as evidence of the facts and matters and things therein contained, to the extent aforesaid.

Rules for the court of chancery.

XII. And for remedying the practice of courts of equity in regard to process of contempt and the taking of bills pro confesso, be it further enacted, That the rules and regulations herein-after provided and contained shall be adopted by the high court of chancery in Ireland, and shall from henceforth become orders and rules of the said court of chancery, and be observed and enforced in and by the said court; (that is to say,)

No. XII.

c. 16.

- 1. That where a defendant is confined for a misdemeanor, and has been brought before the court upon an habeas corpus, and there- 5 & 6 W.4, upon has been turned over to the said marshalsea, pro forma, but has been carried back to the prison from whence he came with his cause, another writ of habeas corpus may issue, directed to the gaoler or keeper of the prison to which he has been carried back, and thereupon the defendant shall be brought into court, and remanded to the prison from whence he came, with his cause, without being turned over again to the said marshalsea, and the bill may be taken pro confesso in the same manner in all respects as if the defendant had been all along in the custody of the marshal of the said marshalsea.
- 2. That if the defendant, under process of contempt for not appearing or not answering, be in actual custody, and shall not have been sooner brought to the bar of the court under process to answer his contempt, the plaintiff, if the contempt be not sooner cleared, shall bring the defendant by an habeas corpus to the bar of the court within thirty days from the time of his being actually in custody, or detained (being already in custody) upon process of contempt, and if the last day of such thirty days shall happen out of term, then within the four first days of the ensuing term; and where the defendant is in custody of the serjeant at arms or of the messenger upon an attachment or other process the plaintiff shall, within ten days after his being taken into such custody, or if the last of such ten days shall happen out of term, then within the first four days of the next ensuing term, cause the defendant to be brought to the bar of the court; and in case any such defendant shall not be brought to the bar of the court within the respective times aforesaid the sheriff, gaoler or keeper, serjeant at arms or messenger, in whose custody he shall be, shall thereupon discharge him out of custody without payment by him of the costs of contempt, which shall be payable by the party on whose behalf the process issued; and this rule shall apply to every defendant in custody before and at the time of passing of this act who shall not have been brought to the bar of the court, but the thirty days allowed in the first above-mentioned case and the ten days allowed in the second above-mentioned case shall be reckoned from the first day of the next term.
- 3. That if a defendant, upon being brought before the court upon an habeas corpus, shall make oath (which shall be administered to him by the registrar, and he shall be examined in open court,) that he is unable by reason of poverty to employ a solicitor to put in his answer, the court shall thereupon refer it to a master in rotation to inquire into the truth of that allegation, and to report thereon to the court forthwith, and thereupon the court may make such order as upon other reports of the like nature under the provisions hereinafter contained.
- 4. That on the thirtieth day of January, the thirtieth day of April, the thirtieth day of July, and the thirtieth day of October, in every year, or if any of those days happen on a Sunday, then on the following day, one of the masters of the court of chancery, to be named by the court, shall visit the said marshalsea prison, and examine the prisoners confined there for contempt, and shall report his opinion on their respective cases to the court; and thereupon it shall be lawful for the court to order, if it shall see fit, that the costs of the contempt of any such prisoner shall be paid out of the interest and dividends arising from the several government or parliamentary securities standing in the name of the accountant general of the said court of chancery, intituled "Account of Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," and "Account of Securities purchased with Surplus Interest arising from Securities carried to an Account of

No. XII. 5 & 6 W. 4, c. 16.

Monies placed out for the Benefit and better Security of the Suitors of the High Court of Chancery," or out of any cash standing to either of such accounts, or to any other account which is now or hereafter may be standing to the credit of the suitors of the said court of chancery, (after and subject to the payment of all charges which by any act heretofore passed are directed to be paid thereout, and to assign a solicitor and council to such prisoner, for putting in his answer and defending him is formd payeris, and to direct any such prisoner, having previously done such acts as the court shall direct, to be discharged out of custody; provided that if any such defendant shall become entitled to any funds out of such cause, the same shall be applied, under the direction of said court, in the first instance, to the reimbursement of the suitors fund.

- 5. That it shall be lawful for the master visiting the said marshalses, or to whom the case of a prisoner shall be referred by the court itself, to examine the prisoner, and all other persons whom he may think it proper to examine upon oath, and to administer an oath or oaths to any such prisoner and other persons accordingly, and to cause any officers, clerks, and ministers of any court of law or equity to bring and produce upon oath before him any records, orders, books, papers, or other writings belonging to the said courts, or to any officers within the same as such officers.
- 6. That if it shall appear to the satisfaction of the court that any such prisoner is an idiot, lunatic, or of unsound mind, although no commission has issued, the court shall appoint a guardian to put in his answer, and discharge the defendant, providing for the costs in any of the ways pointed out by this act, as shall seem just; and if the court shall see fit, the defence may be made by such guardian in formal pauperis.
- 7. That where the defendant has been brought to the bar of the court for his contempt in not answering, and refuses or neglects to answer, (not being idiot, lunatic, or of unsound mind,) the court may, upon motion or petition, of which due notice shall be given personally to the defendant, authorize the plaintiff to amend his bill, without such amendment operating as a discharge of the contempt, or rendering it necessary to proceed with the process of contempt de novo; but after such amendment the plaintiff may proceed to take the amended bill pro confesso, in the same manner as if it had not been amended: Provided nevertheless, that if the defendant shall be desirous to answer such amended bill, the court shall allow him such time as shall seem just for that purpose; but if he shall not within the time allowed by the court put in a sufficient answer to the amended bill, the process for taking the bill pro confesso may be resumed and carried on.
- 8. That in every case where the defendant has been brought to the bar of the court to answer his contempt for not answering, and shall refuse or neglect to answer within the next twenty-one days, the plaintiff shall be at liberty, with the leave of the court, upon ten days' previous notice to the defendant, after the expiration of such twenty-one days, unless good cause be shown to the contrary, instead of proceeding to have the bill taken pro confesso, to put in such an answer to the bill as herein-after is mentioned, in the name of the defendant, without oath or signature, and thereupon the suit shall proceed in the same manner as if such answer were really the answer of the defendant, with which the plaintiff was satisfied; and the costs of the contempt and of putting in such answer may be provided for in like manner as if the defendant himself had put in such answer; and such answer, besides the formal parts thereof shall be to the following effect; that the defendant leaves the plaintiff to make such proofs of the several matters in the bill alleged as

he shall be able or be advised, and submits his interests to the No. XII. court.

5 & 6 W. 4. c. 16.

- 9. That in any case where, upon the application of the plaintiff, the court shall be satisfied that justice cannot be done to the plaintiff without an answer to the bill or to the interrogatories from the defendant himself, it shall be lawful for the court to order the defendant to remain in custody until answer or further order, but without prejudice to the plaintiff's availing himself of any of the provisions of this act.
- 10. That where the defendant is in contempt for not appearing or not answering, and in actual custody under process for such contempt, or being already in custody shall be detained by an attachment for such contempt, and shall not, where the contempt is for not appearing, enter an appearance within twenty-one days after he is lodged in gaol or prison, or the attachment is lodged against him, (he being already in prison,) as the case may be, or, where the contempt is for not answering, put in an answer within two calendar months after he is lodged in gaol or prison, or the attachment is lodged against him, he being already in prison, the plaintiff shall (as the case may be), within fourteen days after the period computed from the expiration of such twenty-one days within which he may by the provisions of this act be able to enter such appearance, cause an appearance to be entered for the defendant under the powers of this act, and shall at the expiration of such two calendar months proceed to take the bill pro confesso, and shall accordingly obtain an order for taking the same pro confesso within six weeks after the period computed from the expiration of such two calendar months within which he may be able to take the same pro confesso; or in default of so doing in either of such cases the defendant shall, upon application to the court, be entitled to be discharged out of custody without paying any of the costs of the contempt, unless the court shall, under the power herein-before contained, see good cause to remand and detain the defendant in custody; and this rule shall apply to every defendant in custody before and at the time of the passing of this act who shall not have entered his appearance, and for whom an appearance shall not have been entered, or shall not have answered the bill, and the bill shall not have been taken pro confesso, but the twenty-one days and two calendar months respectively to be reckoned from the first day of next term, and the other periods to be altered accordingly in computation; but nothing in this act shall prevent any plaintiff from proceeding to take his bill pro confesso, according to the practice existing before the passing of this act, without prejudice to the right of the defendant to be discharged if not effected within the time hereinbefore limited.
- 11. That where a defendant is in custody for a contempt in not answering, and shall be able to put in his answer without taking an office copy of the bill, he shall not be compellable to take any such copy, but the proper officer may (if he think the defendant is of sufficient ability to pay for an office copy, and an office copy ought by the practice of the court to be taken out,) require him, before the answer is filed, to make an affidavit denying his ability in consequence of poverty to pay for an office copy of the bill.
- 12. That when any person shall have been directed by any decree or order to execute any deed or other instrument, or make a surrender or transfer, and shall have refused or neglected to execute such deed or instrument, or to make such surrender or transfer, and shall have been committed to prison under process for such contempt, or, being confined in prison for any other cause, shall have been charged with or detained under process for such contempt, and shall remain in such prison, and the court shall, under the powers of an act passed in the fourth and fifth years of his present

No. XII. 5 & 6 W. 4. c. 16.

Majesty's reign, have ordered one of the masters to execute any deed or other instrument, surrender, or transfer, for and in the name of such person, in every such case, within ten days after the execution or making of any such deed or other instrument, or surrender or transfer, notice thereof shall be given by the adverse solicitor to the party in whose name the same is executed or made; and such party, as soon as the deed or other instrument, or surrender or transfer, shall be executed, made, levied, or suffered, shall be considered as having cleared his contempt, except as far as regards the payment of the costs of the contempt, and shall be entitled to be discharged therefrom under any of the provisions of this act applicable to his case; and the court shall make such order as shall be just, touching the payment of the costs of or attending any such deed, surrender, instrument, or transfer.

13. That where a person shall be committed for a contempt in not delivering to any person or persons, or depositing in court or elsewhere, as by any order may be directed, books, papers, or any other articles or things, any sequestrator or sequestrators appointed under any commission of sequestration shall have the same power to seize and take such books, papers, writings, or other articles or things, being in the custody or power of the person against whom the sequestration issues, as they would have over his own property; and thereupon such articles or things so seized and taken shall be dealt with by the court as shall be just; and after such seizure it shall be lawful for the court, upon the application of the prisoner, or of any other person in the cause or matter, or upon any report to be made in pursuance of this act, to make such order for the discharge of the prisoner, upon such terms, and, if it shall see fit, making any costs to be costs in the cause, as to the court shall seem proper.

14. That in all cases of contempt, other than and besides those already provided for, where any person or persons is or are or shall at any time hereafter be in prison under or by reason of any commitment or attachment, the court may, upon any such application as last aforesaid, or upon any such report as aforesaid, make such order for the discharge of the prisoner from the contempt, upon any such terms, and making, if the court shall see fit, any costs to be costs in the cause, as to the court shall seem proper, or except as to the costs, for which costs the prisoner shall remain in custody, but entitled to the provisions herein-after contained if he be insolvent.

- 15. That wherever the court shall, upon any such report as aforesaid, or upon investigation of the case of a prisoner by the court itself, be of opinion that the purposes of justice will not be answered by his remaining any longer in custody, or where it shall appear upon any such report as aforesaid that any person committed for a contempt shall be entitled to his discharge upon applying to the court, but shall omit to make such application, the court may, either with his assent or compulsorily, discharge such person from the contempt and from custody, and pay the costs of the contempt out of any funds belonging to him over which the court may have power, or make them costs in the cause as against him, or may discharge him from the contempt, but leave him in custody for the costs, which may be cleared, if he be insolvent, under the provisions herein-after contained in that behalf.
- 16. That where any party obstinately retains possession of lands or other real property after a writ of execution of a decree or an order for delivery of possession has been duly served and demand of possession made, and upon an affidavit of such service of the writ of execution, and of such demand made thereunder, and a refusal to comply therewith on the part of the person against whom the writ issued, the party issuing it shall be at liberty, upon an affidavit of service of the writ of execution and demand of possession and refusal, to obtain the usual order of course for the writ of assistance

c. 16.

to issue, and that the intermediate writs of attachment and injunction further commanding the party to deliver possession, or any 5 & 6 W. 4,

other writ, shall be unnecessary.

17. That in order to relieve persons in prison from the expence of taking affidavits or answers, the lord high chancellor do, by one or more commission or commissions under the great seal, upon or in respect of which no fee shall be payable, nominate and appoint the marshal, keeper, or other chief officer of every prison within the city of Dublin, or within two miles thereof, and their deputies, to be masters extraordinary of the high court of chancery, for the purpose of taking and receiving such affidavits and answers as any person or persons within any such prison shall be willing or desirous to make, and for no other purpose; and the person so taking such affidavit or answer shall not in respect thereof be entitled to receive any fee; and the court of exchequer shall in like manner appoint such persons as aforesaid a commissioner or commissioners of the said court for the purposes aforesaid, and no others, and without the right to any fee; and in every case of an answer being sworn in prison a clerk of the deputy keeper of the rolls or of the filazer of the exchequer (as the case may require) shall attend to take and carry back to and from the prison the answer, and shall in respect thereof be entitled to.

XIII. That the discharge of any prisoner adjudicated upon under the Discharge may authority of any act now in force for the relief of insolvent debtors in extend to pro-Ireland, or any act which may hereafter be passed for the relief of insol- cess for convent debtors, shall and may extend to all process issuing from any tempt in noncourt of equity for any contempt of such court for nonpayment of rent payment of or money, or of costs, charges, or expences in any such court, includ- money, and to ing the costs of any commitment or attachment from which the party costs incurred shall have been discharged so far as regards the contempt but shall by creditor, but shall have been discharged so far as regards the contempt, but shall subject to have been left liable to the costs; and that in such case the said distaxation. charge shall be deemed to extend to all costs which such prisoner shall be liable to pay in consequence or by reason of such contempt, or on purging the same; and that every discharge, so adjudicated as aforesaid, as to any debt or damages of any creditor of such prisoner, shall be deemed to extend also to all costs incurred by such creditor, before the filing of such prisoner's schedule, in any action or suit brought by such creditor against such prisoner for the purpose, for the recovery of the same; and that all persons as to whose demands for any such costs, money, or expences any such person shall be so adjudged to be discharged, shall be deemed and taken to be creditors of such prisoner in respect thereof, and entitled to the benefits of all the provisions made for creditors by the said act or any future act, subject nevertheless to such ascertaining of the amount of the said demands as may be had by taxation or otherwise, and to such examination thereof as is in the said last-mentioned act or as shall be in any future act provided in respect of all claim to a dividend of such insolvent's estate and effects.

XIV. That where the process of contempt is for the nonperformance When process of an act, for example, the not answering a plaintiff's bill, and the bill of contempt is in equity to which the insolvent is a party is taken pro confesso, and he for nonperhas not paid the costs of the contempt, or the insolvent has fully an- formance of swered the plaintiff's bill or interrogatories, or otherwise cleared his an act. contempt except as far as regards the payment of the costs, or it has become in event unnecessary for him to do the act for the nonperformance of which he was committed or attached, the court of equity in which the suit is depending shall, upon the application of the party in contempt, discharge him from the same, except as to the costs thereof for which he shall remain in custody, and such costs shall be deemed within the provision lastly herein-before contained, and he shall be dischargable therefrom, and from the process of contempt, in like manner as if the process of contempt were for nonpayment of money or costs;

No. XII. c. 16.

Powers given by this act to the court of chancery to extend to the lord keeper and master of the rolls.

Foregoing rules to be adopted by the court of exchequer.

Powers contained in such rules may be exercised by the court of exchequer.

Rule for the interpretation of this act.

provided that this order or regulation shall not weaken any of the other 5 & 6 W. 4, powers by this act given, nor shall any thing herein contained lessen the operation of the said act for the relief of insolvent debtors.

XV. That the powers and authorities given by this act to the court of chancery, or to the lord chancellor of Ireland, shall and may be exercised as well by such lord chancellor as by (and they are hereby given to) the lord keeper or commissioners of the great seal of Ireland for the time being, and to the master of the rolls; but the reports of the marshal of the marshalsea, and of the masters visiting there, shall be made to the lord chancellor, lord keeper, or lords commissioners only, who alone are to make orders thereupon for discharge or relief of prisoners.

XVI. That the rules herein-before directed to be adopted by the court of chancery shall be adopted by the court of exchequer, which court shall, for the purposes of this act, draw upon the suitors fund of

that court.

XVII. That the powers and authorities contained in such last-mentioned rules, and given by this act to the lord chancellor, shall and may be exercised in like manner by and are hereby given to his Majesty's court of exchequer, and may be exercised by the said court, or by the lord chief baron thereof; but such periodical visits only to be made to the said marshalsea, in regard to prisoners for contempt of the said court, as the lord chief baron shall direct, and by such officer or officers of the court as he shall nominate.

XVIII. That wherever this act, in describing or referring to any person, or any conveyance, transfer, matter, or thing, uses the word importing the singular number or the masculine gender only, the same shall be understood to include and shall be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and several conveyances, transfers, matters, or things respectively, as well as one conveyance, transfer, matter, or thing respectively, unless there be something in the subject or context

repugnant to such construction.

XIX. Provided always, that nothing in this act contained shall annul or vary the provisions of an act of the seventh year of George the second, sions of 7 G. 2, relating to Ireland, intituled An Act for the Relief of Mortgagees, and for making the Process in Courts of Equity more effectual against Mortgagors who abscond and cannot be served therewith, and against Persons who being served refuse to appear; and also for better regulating the payment of the Fees of Attornies and Solicitors; or of an act of the second year of his present Majesty, intituled An Act to effectuate the service of Process issuing from the Courts of Chancery and Exchequer in England and Ireland respectively; or of an act of the fourth and fifth of his present Majesty, intituled An Act to amend and extend an Act of the second year of his present Majesty, to effectuate the Service of Process issuing from the Courts of Chancery and Exchequer in England and Ireland; or of an act of the fourth and fifth years of his present Majesty, intituled An Act for the Amendment of the Proceedings and Practice of the High Court of Chancery in Ircland; or any of them, except so far as they are inconsistent with any of the provisions of this act.

This act not to annual provi-(I.)2 W. 4, c. 33. 4 & 5 W. 4, c. 82. 4 & 5 W. 4, c. 78.

> [No. XIII.] 5 & 6 W. IV. c. 47.—An Act to repeal so much of an Act passed in the Third and Fourth Years of His present Majesty, as relates to the Amount of the Salary granted to the Clerk of the Crown in Chancery; and to make other Provisions in relation to the said Office.

[31st August 1835.]

WHEREAS by an act passed in the third and fourth years of the reign 3 & 4 W. 4. of his present Majesty, intituled An Act to provide for the Performc. 84, ance of the Duties of certain Offices connected with the Court of Chancery

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No. XIII.

c. 47.

which have been abolished, the salary of the clerk of the crown in chancery was fixed at eight hundred pounds per annum, in full satisfaction 5 & 6 W. 4, for the duties of the said office, and of all expences incident to the performance thereof: And whereas the expences of the said office vary, and in some years may be so great as to leave a very inadequate sum for the salary of the clerk of the crown; and it is expedient to make provision for securing to that officer a proper remuneration for the responsible duties performed by him, and for the payment of the reasonable and necessary expences of his offices: Be it therefore enacted, &c., That so much of the said recited act by which the yearly salary of eight Repealing so hundred pounds is granted to the clerk of the crown in chancery, in full much of recited satisfaction for the duties of the said office, and of all expences incident act as grants a to the performance thereof, shall be and the same is hereby repealed; salary of 8001. and instead and in lieu thereof there shall be paid to the said clerk of the crown, and the crown for the time being the yearly salary of five hundred pounds, granting a free and clear from all deductions on account of the expences incident clear salary of to the performance of the duties of the said office; and the said salary of 500L in lieu five hundred pounds shall be issued and payable out of and be charged thereof. and chargeable upon the same fund as the before-mentioned yearly salary of eight hundred pounds was directed to be issued out of and made chargeable upon by the said recited act.

II. That it shall be lawful for the lord high treasurer, or any three or The treasury more of the commissioners of his Majesty's treasury, for the time being, may allow the and he and they is and are hereby required, by warrant under his or their expences of the hands, to allow to the said clerk of the crown, for his clerks, and for office of the the other incidental and necessary expences of his office, such sum per clerk of the annum as he or they shall deem reasonable and proper; and the sum crown, and diso allowed as aforesaid shall be paid and payable out of and be charged rect the same and chargeable upon the fees and emoluments taken and received in of the fees. the office of the said clerk of the crown; and the residue only of the said fees and emoluments, after payment of the said expences, shall be paid and payable into the receipt of his Majesty's exchequer, and be carried to and made part of the consolidated fund of the united kingdom of Great Britain and Ireland, any thing in the said recited act to the contrary notwithstanding.

III. Provided always, that it shall be lawful for the said lord high Treasury may treasurer, or any three or more of the commissioners of his Majesty's vary the allowtreasury, from time to time to reduce or increase the amount to be ance for exallowed to the said clerk of the crown for such expences of his office as pences.

occasion may be or require. IV. That the said yearly salary of five hundred pounds hereby granted Salary and sum to the clerk of the crown in chancery, together with such annual sum allowed for exas shall be allowed by the said lord high treasurer or commissioners of pences to comhis Majesty's treasury for the clerks and other incidental expences of mence and be the said office as aforesaid, shall commence on and be payable from the payable from fifteenth day of November one thousand eight hundred and thirty-four, wember 1834, when the present clerk of the crown was appointed, and shall from time and be paid to time be paid and payable, charged and chargeable quarterly on the and be pathern thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December in each year.

V. That it shall and may be lawful for the lord high treasurer, or any The treasury three or more of the commissioners of his Majesty's treasury, together and the lord with the lord chancellor, or the lord keeper, or lords commissioners for chancellor may the custody of the great seal of Great Britian, whenever it shall appear alter and vary to them expedient so to do, to alter and vary the scale of fees to be de_ the scale of manded and taken by the clerk of the crown in chancery; and such fees whenever scale of fees, when so altered and settled, shall be deemed to be the lawit expedient. ful fees appertaining and belonging to the office of the clerk of the crown, and shall and may be demanded and taken accordingly; and the whole of the fees and emoluments which have been received by the Fees to be acpresent clerk of the crown since the date of his appointment, and which counted for as may hereafter be received in the said office, shall be accounted for by the treasury

c. 47.

No. XIII. the said present clerk of the crown, and by his successors, to the lord 5 & 6 W. 4, high treasurer or commissioners of his Majesty's treasury for the time being, at such times and in such form and manner as he or they shall think fit to direct; and the amount of such fees and emoluments, after deducting from and paying thereout the necessary expences of the said office so sanctioned and allowed as aforesaid, shall be paid by the clerk of the crown for the time being into the receipt of his Majesty's exchequer within ten days from the time of rendering the account thereof as aforesaid; and such amount shall be carried to and made part of the consolidated fund of the united kingdom of Great Britian and Ireland.

> [No. XIV.] 5 & 6 W. IV. c. 82.—An Act to abolish certain Offices connected with Fines and Recoveries, and the Cursitors in the Court of Chancery, and to make Provision for the Abolition of certain Offices in the Superior Courts of Common Law in England.

> > For this act, see ante, Part IV., Class I., p. 414.]

PART IV.

CLASS XXVI.

CORONER.

(It has been for some time in contemplation to revise the laws relating to coroners; but such revision has not as yet been effected.]

PART IV.

CLASS XXVII.

WARDEN.

There has been no recent statute relating to this class.

PART IV.

CLASS XXVIII.

BANKRUPTS.

[No. I.] 1 & 2 W. IV. c. 56.—An Act to establish a Court in Bankruptcy (1). [20th October 1831.]

WHEREAS an act was passed in the sixth year of the reign of his late 6 G. 4, c. 16. Majesty king George the fourth, intituled An Act to amend the Laws relating to Bankrupts: And whereas it is expedient to provide means of administering and distributing the estate and effects of bankrupts, and of determining the questions which from time to time arise touching the same, other than are provided by the said act: To the end that the rights, as well of the bankrupts themselves as of their creditors, may be enforced with little expence, delay, and uncertainty as possible, be it enacted, &c., That it shall and may be lawful for his Majesty, his Establishment heirs and successors, by charter or letters patent under the great seal of of a court of the united kingdom of Great Britain and Ireland, to erect and establish bankruptcy. a court of judicature which shall be called "The Court of Bankruptcy," and by commission under the great seal to appoint one person, being a serjeant or a barrister at law of not less than ten years standing, to be the chief judge of the said court, and three persons, being serjeants or barristers at law of not less than ten years standing at the bar, or of five years standing at the bar, having previously practised five years as a special pleader below the bar, to be other judges of the said court, and six persons, being barristers at law of not less than seven years standing at the bar, or of four years standing at the bar, having previously practised as a special pleader for three years below the bar, to be called commissioners of the said court, and from time to time to supply any vacancy in the number of the said judges and commissioners; and the same court shall be and constitute a court of law and equity, and shall, together with every judge and commissioner thereof, have, use, and exercise all the rights, incidents, and privileges of a court of record or judge of a court of record, and all other rights, incidents, and privileges, as fully to all intents and purposes as the same are used, exercised, and enjoyed by any of his Majesty's courts of law or judges at Westminster.

II. That the said judges or any three of them shall and may form a The court of court of review, which shall always sit in public, save and except as may review. be otherwise directed by this act, or by the rules and regulations to be made in pursuance hereof, and shall have superintendance and controul in all matters of bankruptcy, and shall also have power, jurisdiction, and authority to hear and determine, order, and allow all such matters in bankruptcy as now usually are or lawfully may be brought, by petition or otherwise, before the lord chancellor, whether such matters may have arisen in the said court of bankruptcy or elsewhere, except as is herein otherwise provided, and also to investigate, examine, hear, and determine all such other matters within the jurisdiction of the said court of bankruptcy as are by this act or may be by the said rules and

regulations assigned and referred to the said court of review.

III. That all such matters to be heard and determined in the said Mode of applicourt of review shall be brought on by way of petition, motion, or cation to court special case, according to the rules and regulations to be established as of review. herein-after provided, subject to an appeal to the lord chancellor on matters of law and equity, or on the refusal or admission of evidence

No. I. c. 56.

to the lord chancellor.

only; and in all cases of appeal to the lord chancellor by virtue of this 1 & 2 W. 4, act such appeal shall be on a special case, and in no other mode whatsoever, except the lord chancellor shall in any case otherwise direct; which special case shall be approved and certified by one of the judges Mode of appeal of the said court of review in matters arising in the said court, and by the judge trying the issue in matters arising out of the trial of issues; and the determination of such judge on the settlement of such case shall be final and conclusive: Provided always, That all appeals to the lord chancellor by virtue of this act shall be heard by the lord chancellor only, and not by any other judge of the high court of chancery.

Court of review may direct meues.

IV. That it shall be lawful for the said court of review to direct any issue of fact arising therein to be tried by a jury before one of the judges thereof, or before a judge of assize, and to issue process to compel the attendance of jurors and witnesses, and to enforce the orders and decrees of the said court of review, and to that end to exercise all the powers vested for such purposes in any of his Majesty's courts of record at Westminster.

Costs in the court of review.

Subdivision courts.

V. That all costs of suit between party and party in the said court of review shall be in the discretion of the court, and shall be taxed by one of the masters of the high court of chancery.

VI. That the said six commissioners may be formed into two subdivision courts, consisting of three commissioners for each court, for hearing and determining the matters and things and making the examinations herein-after referred thereto; and all references or adjournments by a single commissioner to a subdivision court, by virtue of this act, shall be to the subdivision court to which he belongs, unless the said commissioner, in case of the sickness of some one or more of the commissioners of such subdivision court, or other sufficient cause, shall think fit otherwise to direct; and the said subdivision courts may sit either in public or private, as they shall see fit, unless where it shall be otherwise provided by this act, or by the rules to be made as herein-after mentioned.

The powers of

VII. That in every bankruptcy prosecuted in the said court of bankcommissioners. ruptcy it shall and may be lawful for any one or more of the said six commissioners to have, perform, and execute all the powers, duties, and authorities by any act or acts of parliament now in force vested in commissioners of bankrupt, in all respects as if they or any one or more of them were in every instance specially authorized and appointed for the purpose by a separate commission under the great seal of the united kindom of Great Britain and Ireland; provided always, That no single commissioner shall have power to commit any bankrupt or other person examined before him otherwise than to the care and custody of a messenger or other officer of the said court, to be by him detained in his custody, and brought up before a subdivision court, or the court of review within three days after such commitment, for which purpose one of such courts shall be forthwith assembled, and to which court such examination shall be adjourned.

Oath of judges and commusioners.

VIII. That in lieu of the oath directed to be taken by commissioners under the said recited act, every judge and commissioner to be appointed by virtue of this act shall, before he shall be capable of acting in the execution of any of the powers and authorities given by this act, take an oath in the presence of the lord chancellor to the effect following; (that is to say,)

' I A. B. do swear, That I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute 'the several powers and trusts reposed in me [as the chief judge or one of the judges, or one of the commissioners, as the case may be, of the court of bankruptcy,] and that without favour or affection, prejudice or malice. So held me GOD.

And any judge or commissioner having once taken the said oath shall

not again be required to take the same so long as he shall continue in office.

No. I. 1 & 2 W. 4,

c. 56.

IX. That it shall be lawful for his Majesty, his heirs and successors, under his or their royal sign manual, from time to time to appoint two registrars, and any number not exceeding eight deputy registrars to act Appointment of as such in the said court of bankruptcy, and to attend upon and assist registrars and the said judges and commissioners; which officers so to be from time to deputy regustime appointed shall hold their respective offices during good behaviour, trarsnotwithstanding the demise of his Majesty or any of his heirs or successors: Provided always, That it shall be lawful for his Majesty, his heirs and successors, to remove any of such officers upon a certificate from the said court of review, or one of the subdivision courts, of some sufficient reason, to be named therein, for such removal.

X. That all attorneys and solicitors of any of the superior courts of law or equity at Westminster may be admitted and have their names All attorneys enrolled in the said court of bankruptcy, without any fee or charge and solicitors other than such as shall be allowed by this act, or any rule or regulation may practise in to be made in pursuance thereof, and may appear and plead in any pro- this court. ceedings in the said court without being required to employ counsel, (except in proceedings before the said court of review, and upon the trial of issues by jury); and in case any person, not being an attorney or solicitor duly admitted as aforesaid, shall practise in the said court of bankruptcy as an attorney or solicitor, he shall be deemed guilty of a contempt of the said court, and be liable to all the penalties incident thereto, on complaint thereof made to the court of review; and that all the

bankruptcy. XI. That the judges of the said court of review, with the consent of the lord chancellor, shall have power from time to time to make general Judges to make rules and orders for regulating the practice of the said court of bank-rules for reguruptcy, the sittings of the judges and commissioners thereof, and the lating the pro-

laws and statutes now in force concerning attorneys and solicitors shall extend to attorneys and solicitors practising in the said court of

ceedings of the

conduct of the other officers and of the practitioners therein. XII. That in every case wherein the lord chancellor, by virtue of any court. former act, hath power to issue a commission of bankrupt under the The lord changreat seal, it shall and may be lawful for him, and also for the master cellor to issue of the rolls, the vice chancellor, and each of the masters of the court of a fiat in lieu of chancery acting under any appointment by the lord chancellor to be a commission given for that purpose, on petition made to the lord chancellor against any trader having committed any act of bankruptcy by any creditor of such trader, and upon his filing such affidavit and giving such bond as is by law required, to issue his flat under his hand in lieu of such commission, thereby authorizing such creditor to prosecute his said complaint in the said court of bankruptcy, or to prosecute the same elsewhere before such discreet and proper persons as the lord chancellor, or as the master of the rolls, vice chancellor, or one of the masters of the court of chancery, acting as aforesaid, by such fiat may think fit to nominate and appoint; and that the persons so appointed shall thereby have the like power and authority to all intents and purposes as if they were assigned and appointed special commissioners by virtue of a commission under the great seal. (1)

XIII. That every such fiat, prosecuted in the said court of bankruptcy, shall be filed and entered of record in the said court, and shall Fiats to be filed thenceforth be a record of the said court, and it shall thereupon be law- in court of ful for any one or more of the commissioners thereof to proceed thereon bankruptcy. in all respects as commissioners acting in the execution of a commission

⁽¹⁾ Where a joint fiat issues against two of three partners, and afterwards commissioners are appointed in pursuance of this section, a separate fiat against the third partner cannot be directed to the old commissioners. Ex parte Beagus, 1 Mont. & A. 443.

No. I. 1 & 2 W. 4, c. 56.

Appointment of country commissioners, and fiats to them.

of bankrupt, save and except as such proceeding may be altered by virtue of this act.

XIV That the indees who so the several circuits in England and

XIV. That the judges who go the several circuits in England and Wales may be directed by the lord chancellor from time to time to return to him the names of such number as he shall think fit to require of barristers, solicitors, and attorneys practising in the counties to the said circuits belonging, and upon such persons being returned, and approved by the lord chancellor the fiat or fiats aforesaid not directed to the court of bankruptcy shall be directed to some one or more of such persons in rotation to act as commissioners of bankrupt, according to the districts or places for which such persons shall be so returned, and to no other person than such as shall be included in such return: Provided always, That it shall be lawful for the lord chancellor at any time to remove any person from the lists to be so returned, for such cause as to him shall seem fit.

Oath of commissioners in the country.

XV. That in lieu of the oath required by the said recited act to be taken by commissioners of bankrupt, all persons acting as such commissioners elsewhere than in the said court of bankruptcy shall take an oath to the effect following:

'I A. B. do swear, That I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the several powers and trusts reposed in me as a commissioner in a prosecution of bankruptcy against and that without favour or affection, prejudice or malice. So help me GOD.'

Provisions of former acts made applicable to this act and to fiats.

XVI. That all the laws and statutes, rules and orders, now in force relating to bankrupts, or to commissioners of bankrupt, or to proceedings under such commissions, or to the subject matters of such proceedings, or to the persons concerned therein or in any way affected thereby, shall in like manner extend and be construed to extend in every respect, as far as the same may be applicable, to this act, and to fiats issued in pursuance thereof, and to all proceedings under the same, and to all the subject matters of such proceedings, and to all persons concerned therein or in any way affected thereby, to all intents and purposes whatsoever, as if every such fiat were a commission of bankrupt under the great seal of the united kingdom of Great Britain and Ireland, save and except as may be otherwise directed by this act.

Manner of proceeding in case the bankrupt shall dispute the adjudication.

XVII. That if any trader adjudged bankrupt shall be minded to dispute such adjudication, and shall present a petition praying the reversal thereof to the said court of review, such petition to be presented within two calendar months (1) from the date of such adjudication if such trader shall be then residing within the united kingdom, or within three calendar months from the date aforesaid if then residing in any other part of Europe, or within one year from the date aforesaid if then residing elsewhere, or within such other time as the said court shall allow, (not exceeding one year, to be computed from the date aforesaid.) such court of review shall proceed to hear and decide on the said petition; or, at the option of the said bankrupt, and on his finding such security for costs (if the said court shall think fit to require any security) as by the said court shall be approved, shall direct an issue to try any matter of fact affecting the validity of such adjudication by a jury, to be duly impanelled and sworn for that purpose, before the chief judge or any one or more of the other judges of the court of bankruptcy; and if the verdict on such issue shall not be set aside, on application made to the said court of review, within one month after the said trial, or if the adjudication of the commissioner shall not be set aside by the said court

⁽¹⁾ This section does not prevent a bankrupt from applying to supersede, though two months have elapsed from the date of the fiat. Ex parte, Palmer 1 Montague, 497.

of review on the petition aforesaid, such verdict or such adjudication of the said commissioner shall in all cases, as against the said bankrupt, and also as against the petitioning creditor, and as against any assignee to be chosen of any such bankrupt's estate and effects, and as against all persons claiming under the said assignees, and all persons indebted to the bankrupt's estate, be conclusive evidence that the party was or was not a bankrupt at the date of such adjudication, any other act, debt, or trading than the act, debt, or trading proved at such trial notwithstanding: Providing always, That an appeal shall be to the lord chancellor from the decision of the said court of review, upon matter of law or equity, or on the refusal or admission of evidence only.

No. I. 1 & 2 W. 4, c. 56.

XVIII. Provided always, That after any such issue shall have been Fiat to issue on tried as aforesaid, it shall and may be lawful for the lord chancellor, on petition to lord petition to him, to be presented within one calendar month after such ver- chancellor. dict, and upon notice thereof to the bankrupt, upon special circumstances, to be submitted to the said lord chancellor, to order that another fiat do issue at the instance of any other than the former petitioning creditor against the said bankrupt, and that such fiat shall and may be supported by any debt, trading, or act of bankruptcy other than those given in evidence on the trial of such issue.

XIX. That it shall be lawful for the lord chancellor, upon the reversal Power to annul of any adjudication of bankruptcy, or for such other cause as he shall hat. think fit, to order that any fiat issued by virtue of this act shall be rescinded or annulled; and such order shall have all the force and effect of a writ of supersedeas of a commission according to the existing laws

and practice in bankruptcy.

XX. That it shall be lawful for any commissioner who shall make any Meetings of adjudication of bankruptcy to appoint two or more public meetings, in- creditors. stead of the three meetings directed by the said recited act, for the bankrupt to surrender and conform, the last of which said meetings shall be on the forty-second day after the publication of his bankruptcy in the Gazette; and the choice of assignees shall take place at the first of such

two meetings (1).

XXI. That in all cases in which power is by this act given to any one Powers given of the said commissioners to act, such power shall and may in like man- to the commisner be exercised by the said chief judge, or by any one of the said other sioners may be judges, as occasion may require; and where any such judge so acting exercised by would, in case he were a commissioner, make any reference or adjourn- the judges. ment to a subdivision court, such reference or adjournment shall be made by such judge to the court of review instead of to a subdivision

XXII. That a number of persons not exceeding thirty, being mer- Appointment chants, brokers, or accountants, or persons who are or have been en- of official gaged in trade in the cities of London or Westminster or the parts adja- assignees. cent, shall be chosen by the lord chancellor to act as official assignees in all bankruptcies prosecuted in the said court of bankruptcy; one of which said official assignees shall in all cases be an assignee of each Their duty. bankrupt's estate and effects, together with the assignee or assignees to be chosen by the creditors; such official assignee to give such security, to be subject to such rules, to be selected for such estate, and to act in such manner as the said chief and other judges, with the consent of the lord chancellor, shall from time to time direct; and all the personal estate and effects, and the rents and profits of the real estate, and the proceeds of sale of all the estate and effects, real and personal, of the bankrupt, shall in every case be possessed and received by such official

⁽¹⁾ The commissioner appointed two meetings under this section, at the first of which assignees were chosen. Held, that the fiat could not be annulled with the consent of the creditors under the 6 G. 4, c. 16, s. 113, 134, till after the second meeting, as other creditors might then come in and prove. 2 Mont. & A. 209.

No. I. c. 56.

assignee alone, save where it shall be otherwise directed by the said 1 & 2 W. 4, court of bankruptcy or any judge or commissioner thereof; and all stock in the public funds or of any public company, and all monies, exchequer bills, India bonds, or other public securities, and all bills, notes, and other negotiable instruments, shall be forthwith transferred, delivered, and paid by such official assignee into the bank of England, to the credit of the accountant general of the high court of chancery, to be subject to such order, rule, and regulation, for the keeping of the account of the said monies and other effects, and for the payment and delivery in, investment, and payment and delivery out of the same, as the lord chancellor, or the said court of review, or any judge of the said court of bankruptcy, if authorized so to do by any general order of the same court, shall direct; and if any such assignee shall neglect to make such transfer, delivery, or payment, every such assignee shall be liable to be charged in the same manner as by the said recited act is provided in cases of neglect by assignees to invest money in the purchase of exchequer bills, when directed so to do: Provided always, That until assignees shall be chosen by the creditors of each bankrupt, such official assignee so to be appointed to act with the assignees to be chosen by the creditors shall be enabled to act, and shall be deemed to be, to all intents and purposes whatsoever, a sole assignee of each bankrupt's estates and effects.

Proviso restricting the authority of official assignees.

For filling up vacancies in the number of assignees.

Personal estate to vest in assignees,

Real estate how to vest.

XXIII. Provided always, That nothing herein contained shall extend to authorize any such official assignee to interfere with the assignees chosen by the creditors in the appointment or removal of a solicitor or attorney, or in directing the time and manner of effecting any sale of the bankrupt's estates or effects. XXIV. That it shall be lawful for the lord chancellor, from time to time as any vacancy may occur in the said before-mentioned number of

official assignees, to appoint some other such person as aforesaid to fill any vacancy so occurring; and in case of the death or removal of any official assignee who shall have been appointed to act in any bankruptcy, it shall be lawful for the said court of bankruptcy, subject to any rules to be made by virtue of this act, to appoint another official assignee of the number hereby prescribed to act in the same bankruptcy in the place of the assignee who shall have so become dead or been removed.

XXV. That when any person hath been adjudged a bankrupt, all his personal estate and effects, present and future, which by the laws now in force may be assigned by commissioners acting in the execution of a commission against such bankrupt, shall become absolutely vested in and transferred to the assignees or assignee for the time being, by virtue of their appointment, without any deed of assignment for that purpose, as fully to all intents as if such estate and effects were assigned by deed to such assignees and the survivor of them; and as often as any such assignees shall die, or be lawfully removed, and a new assignee duly appointed, all such personal estate as was then vested in such deceased or removed assignee shall by virtue of such appointment vest in the new assignee, either alone or jointly with the existing assignees, as the case may require, without any deed of assignment for that purpose.

XXVI. That where any person shall have been adjudged a bankrupt, all such present and future real estate of such bankrupt, whether in the united kingdom of Great Britain and Ireland, or in any of the dominions, plantations, or colonies belonging to his Majesty, as by the said recited act is directed to be conveyed by the commissioners to the assignees, shall vest in such bankrupt's assignee or assignees for the time being, by virtue of his or their appointment, without any deed of conveyance for that purpose; and as often as any such assignee or assignees shall die, or be lawfully removed or displaced, and a new assignee or assignees shall be duly appointed, such of the aforesaid real estate as shall remain unsold or unconveyed shall by virtue of such appointment vest in the new assignee or assignees, either alone or jointly with the

existing assignees, as the case may require, without any conveyance for

that purpose.

XXVII. Provided always, That where according to any laws now in force any conveyance or assignment of any real or personal property of a bankrupt would require to be registered, enrolled, or recorded in any In cases where registry office in England, Wales, or Ireland, or in any registry office, a conveyance court, or other place in Scotland, or any of the dominions, plantations, of the property or colonies belonging to his Majesty, then, in every such case, such of a bankrupt certificate as hereafter is described of the appointment of an assignee would require or assignees shall be registered in the registry office, court, or place tered, the certiwherein such conveyance or assignment as last aforesaid would require ficate of apto be registered, enrolled, or recorded; and the registry hereby directed pointment of shall have the like effect to all intents and purposes as the registry, the assignee enrolment, or recording of such conveyance or assignment as last afore-shall be regissaid would have had; and the title of any purchaser of any such pro- tered. perty as last aforesaid, for valuable consideration, without notice of the bankruptcy, who shall have duly registered, enrolled, or recorded his purchase deed previous to the registry hereby directed, shall not be invalidated by reason of such appointment of an assignee or assignees as aforesaid, or the vesting of such property in him or them consequent thereupon, unless the certificate of such appointment shall be registered as aforesaid within the times following; (that is to say,) as regards the united kingdom of Great Britain and Ireland, within two months from the date of such appointment; and as regards all other places, within twelve months from the date thereof.

XXVIII. That the said judges of the said court of bankruptcy shall Seal of the cause to be made a seal of the said court, in such form as they shall court. think fit, and shall cause to be sealed therewith all such proceedings, documents, and copies as by the law now in being, or by this act, or by any rule or order of the said court, shall be required to be so

scaled.

XXIX. That a certificate of the appointment of such assignees, pur- Evidence of porting to be under the seal of the said court of bankruptcy, shall be re-appointment of ceived as evidence of such appointment, in all courts and places what assignees.

soever, without further proof.

XXX. That any one of the said six commissioners, if he think fit, Adjournment may adjourn the examination of any bankrupt or other person to be of examinations taken either before a subdivision court or the court of review, and may to subdivision likewise adjourn the examination of a proof of debt to be heard before a subdivision court; which said court shall proceed with such lastmentioned examination, and finally, and without any appeal, except upon matter of law or equity, or of the refusal or the admission of evidence, shall determine upon such proof of debts: Provided always, That Trial of disin case, before the said commissioner or subdivision court, both parties, puted debts. the assignees or the major part of them, and the creditor, consent to have the validity of any debt in dispute tried by a jury, an issue shall be prepared under the direction of the said commissioner or subdivision court, and sent for trial before the chief judge or one or more of the other judges; and if one party only applies for such issue, the said commissioner or subdivision court shall decide whether or not such trial shall be had, subject to an appeal as to such decision to the court of review. (1)

XXXI. That if such commissioner or subdivision court shall deter- Certain decimine any point of law or matter of equity, or decide on the refusal or sions of comadmission of evidence in the case of any disputed debt, such matter may missioners may be brought under review of the court of review by the party who thinks be brought himself aggrieved, and the proof of the debt shall be suspended under review

No. I. 1 & 2 W. 4, c. 56.

or appealed against.

⁽¹⁾ The court of review can reverse the decision of a subdivision court on a matter of fact as to expunging a proof; this section applying only to the admission or rejection of proofs. Exparte Baldwin, 1 Mont. & A. 615.

No. I. 1 & 2 W. 4, c. 56.

Determination of court of review in favour of appeals touching such decisions to be final, unless appealed against within one month.

New trial of issues.

Proof of debts by affidavits.

Assignees may appoint the perintend the management of the estate.

Removal of assignees.

Appeal to the

until such appeal shall be disposed of, and a sum not exceeding any expected dividend or dividends on the debt in dispute in such proof may be set apart in the hands of the said accountant general until such decision be made; and in like manner there may be an appeal on the like matter of law or equity from the court of review to the lord chancellor.

XXXII. That if the court of review shall determine in any appeal touching any decision in matter of law upon the whole merits of any proof of debt, then the order of the said court shall finally determine the question as to the said proof, unless an appeal to the lord chancellor be lodged within one month from such determination; and in case of such an appeal, the determination of the lord chancellor thereupon shall in like manner be final touching such proof; but if the appeal, either to the court of review or the lord chancellor, shall be allowed in relation to the admission or refusal of evidence, then and in that case the proof of the debt shall be again heard by the commissioner or subdivision court, and the said evidence shall be then admitted or rejected accordingly.

XXXIII. That after any issue by this act authorized shall be tried, a new trial may be moved in the court of review, which new trial shall be granted or refused according to the rules of the common law and the practice of the courts of Westminster in granting or refusing new trials.

XXXIV. That it shall be lawful for any creditor to make proof of his debt by affidavit, sworn before one of the said judges or commissioners, or before a master in chancery, ordinary or extraordinary, or, if such creditor shall live out of England, by affidavit sworn before a magistrate where such creditor shall be residing, and attested by a notary public, British minister or consul; subject nevertheless to such rules and orders touching the personal attendance of any creditor to make such proof according to the existing laws and practice in bankruptcy as the said court of review, with the consent of the lord chancellor, shall from time to time make and direct.

XXXV. That in every case the assignees may, with the approbation of the proper subdivision court, appoint the bankrupt himself to superbankrupt to su- intend the management of the estate, or to carry on the trade for behoof of the creditors, and in all or any other respects they may think fit to aid them in administering the bankrupt's estate and effects, in such manner and on such terms as they may think best for the benefit of the persons interested in the estate.

> XXXVI. That the court of review shall have power to remove any assignee of any estate, and the order of such court thereupon shall be final and conclusive to all intents and purposes, and not subject to any review by the lord chancellor or otherwise (1).

XXXVII. That in case the lord chancellor shall deem any matter of house of lords. law or equity brought before him by way of appeal from the court of review to be of sufficient difficulty or importance to require the decision of the house of lords, or in case both parties in any proceeding before the court of review shall desire that any such matter may be determined in the first instance by the house of lords, and not by the lord chancellor, then and in such case the lord chancellor or the court of review may direct the whole facts whereupon such question of law or equity shall arise to be stated in the form of a petition of appeal to the house of lords, and the party appealing may carry such appeal to the house of lords in like manner as other appeals are preferred to that house: Provided always, that the cases to be lodged by the parties in the house of lords shall be confined in matter of fact, in cases of appeal from the

⁽¹⁾ Where a commission has been issued prior to this statute, and an assignee has been removed subsequently, it is not necessary that there should be a new assignment, or that the prior assignment should be vacated. Smith v. De Tastet, 4 Deacon & Ch. 358.

lord chancellor, to setting forth the special case brought up to the lord chancellor from the court of review, and in cases of appeal from the 1 & 1 W. 4, said court of review, to setting forth a special case, to be approved and certified in manner herein-before provided touching appeals to the lord chancellor, and to such arguments on the point of law as the parties may be advised to state.

No. I. c. 56.

XXXVIII. That the said judges and commissioners of the said court The court may of bankruptcy shall in all matters within their respective jurisdictions take evidence have power to take the whole or any part of the evidence either vivá voce, or on oath, or upon affidavits to be sworn before one of the said judges or upon affidavit commissioners, or a master, ordinary or extraordinary, in chancery, as before a judge the said court may in any case direct, or as the lord chancellor may or a master. from time to time prescribe, by any general rule to be made by virtue of this act.

XXXIX. That all power, jurisdiction, and authority of the commissions sioners named in any commission of bankrupt depending in the court of depending in commissioners of bankrupts in the city of London shall cease and deter. London to be mine, and that every such commission shall thereupon be removed into removed into the said court of bankruptcy, and that all further proceeding thereon the court of shall be the proceeding thereon bankruptcy. shall be thenceforth prosecuted and carried on in like manner as if they had been originally commenced therein by virtue of a fiat under the hand of the lord chancellor, issued pursuant to this act, save as may be otherwise directed by this act.

XL. That it shall be lawful for each commissioner of the said court Power to apwho shall thenceforth act in such commission, at his discretion, to point official appoint some one of the aforesaid official assignees to act with the assignees to act existing assignees, if any, under such commissions, and to direct the with the existexisting assignees to pay and deliver over to such official assignees all ing assignees monies, books, papers, and effects whatsoever in their possession or under such custody as such assignees; and all the real and personal estate of the bankrupt under such commission shall immediately on such appoint the latter shall ment vest in such official assignee jointly with the existing assignees, if deliver over any, in like manner as if the proceedings in the said bankruptcy had effects. originally been commenced by virtue of this act, without prejudice to any action or suit commenced or any contract entered into by the existing assignees at the time of the passing of this act. (1)

commissions, and to whom

XLI. That wherever this statute hath used words importing the sin- Construction gular number or the masculine gender only, yet it shall be understood and extent of to include several matters as well as one matter, and several persons as this act. well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and that wherever the words lord chancellor are used, they shall also be understood to mean lord keeper and lords commissioners for the custody of the great seal; and that this act shall not extend either to Scotland or Ireland, except where the same are expressly mentioned or referred to.

XLII. That from and after the passing of this act no commission of Concerted bankrupt shall be superseded, nor any fiat annulled, nor any adjudica- bankruptcies. tion reversed, by reason only that the commission, fiat, or adjudication has been concerted by and between the petitioning creditor, his solicitor or agent, or any of them, and the bankrupt, his solicitor or agent or any of them, save and except where any petition to supersede a commission for any such cause shall have been already presented and shall be now pending.

XLIII. That if the assignees of any bankrupt's estate shall agree to Arbitration. refer any matter in dispute with any party to arbitration, in such manner as by law they are empowered to do, such agreement of reference

⁽¹⁾ Although the court of review has a controlling power in the appointment of an official assignee by the commissioner under this clause, yet the court will not interfere unless the commissioner has exercised an unsound discretion in the appointment. Ex parte Bramston, 2 Deac. & Ch. **375.**

No. I. 1 & 2 W.4. c. 56.

684

Abolition of

Sum to be paid the granting of every fiat; and application thereof.

Assignee of bankrupt's estate to pay 20L to the like account.

Sums to be paid sions moved into the court

Restriction of assignees' accounts.

Power for the secretary of Dankrupts to in the first schedule.

may be made a rule of the court of bankruptcy by this act constituted, and thereupon all such rights and remedies, duties and liabilities, shall accrue from such reference so made a rule of the said court, in respect of arbitration and award, and nonperformance of such award, and otherwise howsoever, as by law at present accrue upon any submission of reference made a rule of any of his Majesty's other courts of record.

XLIV. That all fees heretofore payable to the person holding the fees to patentee. patentee's office "for the Execution of the Laws and Statutes concerning Bankrupts," shall cease and determine; and that no fee whatever shall be payable to any person whomsoever holding any office under or by virtue of this act, except such as are provided by this act, or in the schedules hereto annexed, and except the fees payable to any commissioner acting in the execution of any commission or fiat issued or to be issued, and to be executed elsewhere than in the court of bankruptcy.

XLV. That there shall be paid to the lord chancellor's secretary of to the secretary bankrupts, upon the granting of every fiat, in lieu of a commission of of bankrupts on bankrupt, by virtue of this act, the sum of ten pounds; and the sums to be so received by the said secretary shall be by him paid once a week, or oftener, as the lord chancellor shall think fit to direct, into the bank of England, to the credit of the accountant general of the high court of chancery, to a separate account, to be entituled "The Secretary of Bankrupts Account;" and all monies to be paid into the said account shall be subject to such general orders touching the payment in, investment, accounting for, and payment out of such monies for the purposes herein-after provided, as the lord chancellor shall from time to time think fit to prescribe.

> XLVI. That there shall be paid to the said accountant general, to be placed by him to the like account by the official assignee of each bankrupt's estate to be administered in the said court of bankruptcy, out of the first monies that shall come into his hands, and immediately after the choice of assignees by the commissioners, the sum of twenty pounds. (1)

XLVII. That in all cases of commissions of bankrupt which by wirtue on all commis- of the provisions herein contained shall be removed into the said court of bankruptcy, and under which the choice of assignees shall have taken place prior to the commencement of this act, there shall be paid by the of bankruptcy. assignees of every such bankrupt's estate, in lieu of all other sums directed to be paid under and by virtue of this act, the sum of three pounds on every sitting under such bankruptcy which shall be held in the said court, or by any division judge or commissioner thereof (2); such sum to be paid to the said accountant general, and to be carried to the said account entitled "The Secretary of Bankrupts Account:" fees on auditing Provided always, that no fee whatever shall be paid on any meeting for the purpose of auditing the assignees' accounts, unless there shall appear to the commissioners to be sufficient assets of the bankrupt's estate for the payment thereof.

XLVIII. That it shall be lawful for the lord chancellor's secretary of bankrupts for the time being, and his clerks, and he and they are hereby respectively authorized and required, to receive and take the several fees receive the fees and sums set forth in the first schedule hereto annexed, in respect of the business therein specified; and the amount to be so received shall be by the said secretary applied in payment of salaries to a messenger and housekeeper, and the various other expences of his office, and the surplus (if any) of such moneys shall and may be retained for his own use.

⁽¹⁾ On the loss by the petitioning creditor of his evidence to support the fiat, the court of review will not, on a petition by another person for another fiat, order him to be exempt from paying the 101. under sect. 45, and the 201. under this section. Exparte Osborn, 2 Mont. & A. 140.

^{.(2)} Where a country fiat is superseded, because the commissioners decline to act, and a new one issues to a London commissioner, this is not a "removed" fiat under this clause; and the full fees imposed by the two previous sections must be paid. In re Willman, 2 Mont. & A. 292.

removal.

XLIX. That it shall be lawful for the chief registrar of the said court of bankruptcy for the time being, and his clerks, and he and they are 1 & 2 W.4, hereby respectively authorized and required, to receive and take the several fees or sums set forth in the second schedule hereto annexed, in respect of the business therein specified; and the amount to be so Power for the received shall be by him applied in payment of such salaries or sums of chief registrar money to clerks, ushers, and other under officers of the said court of to receive the bankruptcy, as the lord chancellor may from time to time order and fees in the sedirect; and the yearly surplus (if any) of such moneys shall be divided cond schedule. between the two registrars, or between them and the deputy registrars of the said court, in such proportions as the lord chancellor shall appoint.

No. I. c. 56.

L. That from and after the commencement of this act there shall be Salaries of paid and payable, out of the monies and securities standing to the said judges and account to be entitled "The Secretary of Bankrupt's Account," the other officers of yearly sums following, as and for salaries to the judges and other officers the court. for the time being herein-after named; videlicet, to the chief judge of the said court of hankruptcy the sum of three thousand pounds, to each of the other judges of the said court the sum of two thousand pounds, to each of the commissioners of the said court the sum of one thousand five hundred pounds, to the lord chancellor's secretary of bankrupts the sum of one thousand two hundred pounds, to each of the registrars of the said court the sum of eight hundred pounds, to each of the deputy registrars of the said court the sum of six hundred pounds, to the first clerk of the said secretary of bankrupts the sum of five bundred pounds, and to the second clerk of such secretary the sum of three hundred pounds; which said several sums shall be paid from time to time quarterly, free and clear from all taxes and deductions whatsoever, on the eleventh day of April, the eleventh day of July, the eleventh day of October, the eleventh day of January in every year, by equal portions, the first payment thereof respectively to be made on the eleventh day of April next; and that if any person for the time being holding either of the said offices shall die, resign, or be removed from the same, the executor or administrator of the person so dying, or the person so resigning or being removed, shall be entitled to receive such proportionable part of his salary as shall have accrued during the time that such person shall have executed his office since the last payment; and that the successor of any such person so dying, resigning, or being removed

LI. That no judge, commissioner, registrar, or deputy registrar to be Restriction as appointed by virtue of this act shall during their respective continuance to judges and in such offices practise as a barrister, and that no attorney or solicitor other officers whose name shall be on the rolls of the said court of bankruptcy, or of practising as any of his Majesty's courts at Westminster, as such attorney or solicitor, barristers, or shall be appointed to or hold any of the said offices.

as aforesaid shall be entitled to receive such portion of his salary as shall be accruing or shall accrue from the day of such death, resignation, or

being attornies.

LII. And whereas the office of the patentee " for the Execution of Provision for the Laws and Statutes concerning Bankrupts" is now held by the compensation reverend Thomas Thurlow, by virtue of a grant thereof by letters to the patentee patent made to him for the term of his natural life, and the same office of bankrupts. hath also been granted by letters patent to the honourable William Henry John Scott for the term of his natural life, after the termination of the previous existing interest therein: And whereas the duties of the said office, and the fees and emoluments payable in respect thereof, will by virtue of the provisions of this act be wholly discontinued; and it is just and reasonable that such compensation as is herein-after provided should be made to the said patentees, in lieu of such fees and emoluments; be it therefore enacted, That the accountant general and the two senior masters of the high court of chancery shall be and they are hereby appointed commissioners for the purpose after mentioned; and the said commissioners shall, within six months after the passing of

No. I. c. 56.

this act, by examination on oath or otherwise, which oath they and each 1 & 2 W. 4, of them are and is hereby authorized to administer, inquire into and ascertain the amount of the annual clear legal profits and emoluments of the said office, to be computed on an average of the last three years, (after deducting all payments accustomed to be made thereanent,) and shall certify such amount in writing under their hands to the lord high chancellor, whereupon an annuity equal to such amount shall forthwith become a charge on an account to be opened by the said accountant general, and to be entitled "The Secretory of Bankrupts Compensation Account," and shall be paid and payable to the said Thomas Thurlow during his natural life, and from and after his decease to the said William Henry Scott during his natural life, in case he shall survive the said Thomas Thurlow; which annuity shall commence and be computed from the eleventh day of January next, and be payable half-yearly by equal portions on the eleventh day of July and the eleventh day of January in every year, the first of such payments to be made on the eleventh day of July next: Provided always, that in case of the death of either of the said patentees in the interval between either of the said half-yearly days of payment, his executor or administrator shall be entitled to receive a proportionate part of the annuity then payable to the day of his decease; and that the said William Henry John Scott, in case he shall survive the said Thomas Thurlow, shall be entitled to receive on the next half-yearly day of payment after his decease a proportionate part only of his said annuity from the day of such decease.

Compensations ers, clerk of the hanaper, &c.

LIII. And whereas the duties of the several persons now acting as to commission- commissioners of bankrupt in London, and the fees and emoluments accustomed to be received by them, will be abolished by the provisions of this act, and the clerk of the hanaper, purse-bearer, and other officers of the lord chancellor and of the high court of chancery, have been accustomed to receive certain fees, which will also be abolished by this act; and it may be just and necessary that in all or some of such cases compensation should be made in respect of such fees so to be abolished; be it enacted. That it shall be lawful for the lords commissioners of his Majesty's treasury, by examination on oath or otherwise, which oath they and each of them are and is hereby authorized to administer, to inquire into and ascertain the annual amount of the lawful fees and emoluments of such commissioners and other officers received by them, and to award to all and every or such one or more of the said commissioners as they the said lords of the treasury shall deem to be entitled to the same, an annuity or annuities, of such an amount and for such term as the said lords of the treasury shall find to be a fair and reasonable compensation for the loss to be sustained by all or any of the commissioners and officers aforesaid, by the abolition of the said fees, and shall certify the amount of such annuity or annuities, in writing under their hands, to the lord high chancellor, who shall thereupon have power to order the amount so certified as payable to each commissioner or other officer to be paid out of the moneys and securities to be standing to the said account to be entitled "The Secretary of Bankrupts Compensation Account;" and the same shall be payable and paid accordingly to the respective persons aforesaid, without any deduction whatsoever: Provided always, that the annual sum to be so payable to any one of the said commissioners of bankrupt shall not exceed the sum of two hundred pounds, and shall not be paid to any such commissioner who at the commencement of this act or at any time afterwards shall hold any public office or employment of an annual value greater than the annuity · to be so certified as payable to him, or be in the receipt of any yearly sum of money in lieu of or as a compensation for the proceeds of any such office or employment exceeding in amount such annuity, so long as any such office or employment shall be so held, or such sum of money shall continue to be received.

LIV. Provided always, That the annuity or compensation hereby Proviso as to ompensation to clerk of the hanaper.

directed to be made to the clerk of the hanaper shall be fixed and regulated upon the same computation and in like manner as is above pro- 1 & 2 W. 4, vided with respect to the annuity or compensation for the patentee of

the bankrupts office.

LV. That for the purpose of raising a fund to meet the compensations Fees to be paid herein-before directed to be made to the said patentees and commission- into the bank ers of bankrupt, there shall be paid by the official assignee of each by official bankrupt's estate to be administered in the said court of bankruptcy, assignee. immediately after the choice of the assignees by the creditors, or so soon afterwards as a sufficient sum shall come into his hands for the purpose, over and beyond the sum herein-before directed to be paid by such official assignee, the sum of ten pounds, into the bank of England, to the credit of the said accountant general, to be carried to a separate account to be entitled "The Secretary of Bankrupts Compensation Account;" and in like manner there shall be paid to the said accountant general, to be placed by him to the like account, by such official assignee, for every sitting of the said court of bankruptcy, or of any division judge or commissioner thereof, other than the sitting at which any person may be adjudged a bankrupt, or any sitting for the choice of assignees, or any sitting for receiving proofs of debt prior to such choice, or any sitting at which any bankrupt shall pass his or her last examination, or any sitting at which any dividend shall be declared, or any sitting at which the bankrupt's certificate shall be signed by the commissioners, the sum of one pound, and for every such sitting at which a dividend shall be declared a sum of money or fee according to the amount at such sitting ordered to be divided, such fee being regulated by the following scale, videlicet, for all sums not exceeding ten thousand pounds ten shillings in every one hundred pounds, and for any excess above ten thousand pounds two shillings and sixpence in the one hundred pounds; such several payments to be made within one week after such sittings respectively shall be held; and all monies to be paid into the said last-mentioned account shall be subject to such general orders touching the payment in, investment, accounting for, and payment out of such moneys for the purposes herein-before provided, as the lord chancellor shall from time to time think fit to prescribe; and when and as such last-mentioned compensations shall from time to time cease to be payable, it shall be lawful for the said lord chancellor, as he may see fit, to direct that lesser sums shall be paid by the said official assignees at the several times and for the purpose last aforesaid.

LVI. That if at any time it shall appear to the lord chancellor that In case of a the monies and securities standing to the said account to be entitled surplus in the "The Secretary of Bankrupts Account," together with the fees expect. secretary of ant and to be payable to such account, shall be sufficient to answer and bankrupt's acpay the several salaries and other payments for the time being charge-count, the lord able thereon, and to leave a surplus applicable to the purpose after men-chancellor may tioned, it shall be lawful for the lord chancellor to order such abatement ment of fees.

to be made in the fees herein-before made payable by the secretary of bankrupts and by the scill afficial. bankrupts and by the said official assignees, or by either of them, to the said account to be entitled "The Secretary of Bankrupts Account," as may to the said lord chancellor from time to time seem just and rea-

sonable.

LVII. That it shall be lawful for the commissioner before whom any Remuneration person shall be adjudged a bankrupt in the said court of bankruptcy, or to official who shall appoint an official assignee under the power herein-before assignee. given for that purpose, to order and allow to be paid out of the bankrupt's estate, to the official assignee thereof, as a remuneration for his services, such sum of money as shall appear to such commissioner, upon consideration of the amount of the bankrupt's property, and the nature of the duties to be performed by such official assignee, to be just and reasonable.

LVIII. That if any judge, commissioner, registrar, deputy registrar, Penalty on any clerk, messenger, assignee, or any other officer or person whatsoever, officer taking

No. I. c. 56.

c. 56.

1 & 2 W. 4, shall, for any thing done or pretended to be done under this act, or any other act relating to bankrupts, or under colour of doing any thing under this act or any other such acts, fraudulently and wilfully demand or take, or appoint or allow any person whatsoever to take for him or or his account, or for or on account of any person by him named, or in trust for him or for any other person by him named, any fee, emolument, gratuity, sum of money, or any thing of value whatsoever, other than is allowed by this act, and any other such act as aforesaid, such person, when duly convicted thereof, shall forfeit and pay the sum of five hundred pounds, and be rendered incapable and is hereby rendered incapable of holding any office or place whatsoever under his Majesty, his heirs or successors.

Offences

LIX. That any such offender may be prosecuted either by informaagainst this act. tion at the suit of his Majesty's attorney general or by criminal information before his Majesty's court of king's bench, or by indictment: Provided always nevertheless, That if any registrar, deputy registrar, clerk, messenger, or assignee shall commit any offence against this act, it shall and may be lawful for the court of review or the lord chancellor to dismiss the person so offending, upon proof made before him or them of such offence having been committed, upon a rule to shew cause: Provided further, That if such court, on cause being shewn, shall think fit to direct an issue to be tried touching the matter of the said charge such issue may be tried before the said chief judge or one of the other judges of the said court of review.

LX. That no judge, commissioner, registrar, or deputy registrar, secretary of bankrupts, or official assignee, or other officer to be appointed this act ineligiby virtue of this act, shall during their respective continuance in such offices be capable of being elected or of sitting as a member of the house

of commons.

Commencement of this act.

Judges and of-

ficers under

ble to sit in

parliament.

LXI. That this act shall commence and take effect from and after the passing thereof, as to the appointment of the judges and other officers hereby authorized, and as to all other matters and things, from and after the eleventh day of January next.

The FIRST SCHEDULE of Fees before referred to.

	£	S.	d.
For every docket struck, and not acted upon	1	12	6
For every renewed fiat	0	12	0
For every petition of appeal answered for hearing .	0	13	6
For every order on hearing	1	5	0
For every previous minute of order	0	3	6
For every warrant for advertising declaration of in-			
solvency	0	2	6
For every certificate of a flat issued to authorize ad-			
vertisement in the Gazette	0	2	6
For every search made for fiat or other proceeding .	0	1	0
For filing affidavits and other documents	0	1	0
For copies of affidavits, orders, and other proceed-			
ings, per folio of ninety words	0	0	11
			-

No. I. 1 & 2 W. 4, c. 56.

The SECOND SCHEDULE of Fees before referred to.

	£	8.	d.
On filing every fiat	0	1	0
For every certificate of bankrupts conformity	0	6	6
On entering every appeal for hearing in the court of	1		
review	0	2	0
For every order pronounced by that court	1	5	0
For every previous minute or order	0	2	6
For entering every matter for hearing in a subdivision			
court	0	1	0
For every order pronounced there	0	5	0
For fees on the trial of every issue, to be paid by the			
successful party	2	0	0
For every search made in the court	0	1	0
For filing affidavits and other documents .	0	1	0
For copies of affidavits, orders, and other proceedings,			
per folio of ninety words	0	0	11
For every subporna ad test, and other writ issued out			_
of the court	0	2	0

[No. II.] 1 & 2 W. IV. c. 114.—An Act to amend the Laws relating to Bankrupts. [15th August, 1832.]

WHEREAS by an act passed in the sixth year of the reign of his 6 G. 4, c. 16. late Majesty, intituled, An Act to amend the Laws relating to Bankrupts, it is among other things enacted, that the lord chancellor may, upon petition, direct any depositions, proceedings, or other matter relating to commissions of bankruptcy to be entered of record by a proper person, to be appointed by the lord chancellor for that purpose, or by his deputy: And whereas the said act contains no sufficient provision for making such depositions or office copies of the record thereof evidence, and is in other respects defective: And whereas by an act passed in the first and second years of the reign of his present Majesty, intituled An Act to establish a Court of Bankruptcy, it is amongst other things enacted, That every fiat prosecuted in the said court of bank- 1 & 2 G. 4, ruptcy shall be filed and entered of record in the said court: And whereas c. 56. the said last-mentioned act contains no provision for the entering of record in the said court fiats prosecuted elsewhere, and the depositions and proceedings under such fiats, or for the proof thereof: And whereas it is expedient that the record of all matters in bankruptcy should be under the same custody; be it therefore enacted, &c., That the records of all Providing for commissions of bankrupt, and of all proceedings under the same, which the custody of

No. II. 1 & 2 W. 4, c. 114.

records under former commissions of bankrupt.

Matters inrolled before Sept. 1825, deemed to be effectually entered of rceord.

Certificate of such entry to have the same effect as if ter Sept. 1825.

Judges may order commistered on record.

of parties.

Fiats to be enof any interested party.

may have been heretofore entered of record pursuant to or under color of the said first-recited act or any other act, shall be removed into the said court of bankruptcy, and shall be kept as records of the said cour in such place as the judges of the said court shall from time to time d rect; and that it shall and may be lawful for the judges of the court (bankruptcy to nominate the person heretofore appointed by the lor chancellor to enter such proceedings of record, or, in case of his refus to accept such office, some other fit and proper person, as the clerk of enrolment to the said court, at such salary, to be paid out of the fee herein-after mentioned, as the lord chancellor shall by writing unde his hand direct; and that such clerk of the enrolments and his succes sors (to be appointed in like manner, at the like salary,) shall have the care and custody of all the said records so removed as aforesaid, an shall in like manner enter of record all matters and proceedings in bank ruptcy which by this act or by the said recited acts, or by any orde made in pursuance thereof, are or may be directed to be entered of re cord, upon payment of the fees herein-after mentioned.

II. Provided always, That all commissions of bankruptcy issued be fore the first day of September one thousand eight hundred and twenty five, and all depositions and other proceedings relating to such commis sions, directed to be inrolled, and actually entered of record upon a since that day, shall be deemed and taken to have been well and effect

tually entered of record.

III. Provided nevertheless, That the certificate of such entry, pur porting to be signed by the person appointed to enter such proceedings or by his deputy, shall have the same effect as if such commission has been issued after the said first day of September one thousand eigh commission had hundred and twenty-five, and shall be received in evidence withou

been issued af- proof of the appointment or handwriting of such person.

IV. That any one of the judges of the court of bankruptcy shall have full power and authority, upon application made to him for that pur pose, to direct such officer to enter upon the records of the court an sions to be en- commission of bankrupt at any time heretofore issued, and the depos tions and proceedings had and taken under the same, or such part a parts thereof as such judge shall think fit: Provided always, That: Certain matters shall and may be lawful for such officer to enter of record the seven may be entered matters directed by the said recited acts or either of them to be entered on application of record, upon the application of or on behalf of any party interests therein, without any special order for that purpose.

V. That all fiats already issued or hereafter to be issued in lieu tered of record, commissions of bankrupt to be prosecuted elsewhere than in the sai on application court of bankruptcy, and all adjudications of bankruptcy by the pe sons named in such fiats to act as commissioners, and all appointmen of assignees, and certificates of conformity, made and allowed und such fiats, may and shall be entered of record in the said court bankruptcy, upon the application of or on behalf of any party int rested therein, on the payment of the fees hereafter mentioned, with out any petition in writing presented for that purpose; and that any of of the judges of the said court may, upon petition, direct any depos tion or other proceeding under such fiat to be entered of record as afor said.

Fee for entry of commissions and fiats.

VI. That there may and shall be paid for the entry of every commi sion and fiat the fee of two shillings, and for the entry of every certicate of conformity and of every assignment the fee of six shillings eac and for the entry of every examination such fee as the court of revie shall from time to time fix and appoint, not exceeding the rate of or shilling for every folio thereof, and for the entry of every adjudication of bankruptcy, deposition, appointment of assignees, and every other proceeding or matter relating to commissions or fiats, the fee of tw shillings each; which fees shall be paid to the chief registrar for the time being, and shall be applied by him to the payment of the expend

of such enrolment and the salary of such officer; and the balance thereof, f any, shall be applied to the payment of such other expences attending 1 & 2 W. 4, he said court of bankruptcy as the judges thereof, with the consent of he lord chancellor, shall from time to time direct.

o the petitioning creditor's debt, trading, or act of bankruptcy, under case of the iny commission or fiat already issued or hereafter to be issued, it shall death of witse lawful for the assignees appointed under such commission or fiat, nesses. and for all persons claiming through or under them, or acting by or inder their authority, in the cases hereafter mentioned, to produce and ead in evidence, in all courts of civil judicature, and in all civil proeedings, in maintenance and support of such commission or fiat, any leposition of such deceased witness relative to such petitioning creditor's lebt, trading, or act of bankruptcy, which shall have been duly intered of record pursuant to the provisions of the said recited icts or of this act; and the production or reading of such depoitions, or of any copy thereof, duly authenticated according to the prorisions of the said recited acts or of this act, shall have the same effect is if the matters alleged therein had been deposed to by the same witless in such court according to the ordinary course and practice thereof: Provided always, that the before-mentioned depositions shall be read in vidence in such cases only where the party using the same shall claim, naintain, or defend some right, title, interest, claim, or demand which he bankrupt might have claimed, maintained, or defended in case no

VII. That in the event of the death of any of the witnesses deposing Provision in

VIII. That no fiat issued or to be issued in lieu of a commission of No fiat to be ankrupt, whether prosecuted in the court of bankruptcy or elsewhere, received in evifor any adjudication of bankruptcy or appointment of assignees, or cer-dence unless ificate of conformity under such fiat, shall be received in evidence in any first entered of ourt of law or equity, unless the same shall have been first entered of record.

commission of bankrupt or fiat had issued, and shall not be read in evilence in any action or proceeding now pending by which the validity of

ny commission or fiat is or may be brought into question.

ecord in the court of bankruptcy as aforesaid.

IX. Provided always, That upon the production in evidence of any Proceedings in ommission, fiat, adjudication, assignment, appointment of assignees, bankruptcy, ertificate, deposition, or other proceeding in bankruptcy, purporting purporting to o be sealed with the seal of the said court of bankruptcy, or of any be sealed with vriting purporting to be a copy of any such document, and purporting the seal of the o be sealed as aforesaid, the same shall be received as evidence of such court, to be reocuments respectively, and of the same having been so entered of re- ceived as eviord as aforesaid, without any further proof thereof: Provided neverheless, that all fiats, and proceedings under the same, which may have seen entered of record before the passing of this act, shall and may, upon the production thereof, with the certificate thereon, purporting to be signed by the person so appointed to enter proceedings in bankuptcy, or by his deputy, be received as evidence of the same having een duly entered of record, any thing herein contained notwithtanding.

X. And whereas by the said recited act of the first and second years of Lord chanhe reign of his present Majesty it is amongst other things enacted, that cellor empoweveral sums therein specified shall be paid into the bank of England, to ered to direct he credit of the accountant general of the high court of chancery, to an certain monies count to be intituled "The Secretary of Bankrupts Account," and that credit of the ll monies so paid shall be subject to such general orders for the Il monies so paid shall be subject to such general orders for the pur-secretary of oses therein specified as the lord chancellor shall prescribe; and it is bankrupts' acurther enacted, that compensation shall be made to certain officers count to be herein named, in lieu of certain fees and emoluments by the said act carried to the bolished, and that for the purpose of raising a fund to meet the said secretary of ompensation certain sums in the said act specified shall be paid into bankrupts' he bank, to the credit of the said accountant general, to a separate compensation account to be intituled "The Secretary of Bankrupts Compensation account, and

No. II. c. 114

Account: " And whereas the sums paid in to the credit of the said fi 1 & 2 W. 4, account are more than sufficient to meet the sums at present payal out of the same, and the sums paid in to the credit of the second-me tioned account are at present insufficient to meet the payments direct to be made out of the same, and it may be expedient that power shou be given to the lord chancellor to apply one of those funds in aid of t other, from time to time as occasion may require; be it therefore ena ted, That it shall and may be lawful for the lord chancellor by his ord to direct, from time to time as he may see fit, that the monies standir to the credit of the account intituled "The Secretary of Bankrupt Account," or so much thereof as he may find to be necessary, shall i carried over by the said accountant general to the credit of the accountant intituled "The Secretary of Bankrupts' Compensation Account," at the same when so carried over shall and may be applied in satisfaction of any sum or sums charged upon or made payable out of the said las mentioned account; and in like manner to direct, from time to time he may see fit, that the monies standing to the credit of the account i tituled "The Secretary of Bankrupts Compensation Account," or much thereof as he may find to be necessary, shall be carried over the said accountant general to the credit of the account intituled, "The Secretary of Bankrupts' Account," and the same when so carried ov shall and may be applied in satisfaction of any sum or sums charge upon or made payable out of the said last-mentioned account.

No. III.] 3 & 4 W. 4. c. 47.—An Act to authorize His Majesty to give further Powers to the Judges of the Court of Bankruptcy, and to direct the times of Sitting of the Judges and Commissioners of the said Court.

[28th August 1833.]

WHEREAS by an act passed in the seventh year of the reign of his 7 G. 4, c. 57. late Majesty king George the fourth, intituled An Act to amend and onsolidate the Laws for the Relief of the Insolvent Debtors in England, t is amongst other things enacted, That the court established for the elief of insolvent debtors in England shall be continued, and that the everal persons appointed by his Majesty to be chief and other commisioners of the said court shall continue to be the chief and other comnissioners of the said court, with all the powers, privileges, and authoities in the said act specified: And whereas by an act passed in the irst and second years of the reign of his present Majesty, intituled An 1ct to establish a Court in Bankruptcy, it is enacted, That it shall be 1 & 2 W. 4, awful for his Majesty, his heirs and successors, by a commission under c. 56. he great seal, to appoint one person to be the chief judge and three ther persons to be other judges of the said last-mentioned court: And vhereas such chief and other judges have been duly appointed under and by virtue of the said act: And whereas it has been found, that conistently with the vacation necessarily allowed to the commissioners of he first-mentioned court, and with the time occupied by them while hey are on their several circuits, intervals occur in their sittings during vhich prisoners who would otherwise be entitled to their discharge annot obtain the same: And whereas there are not a sufficient number of such commissioners to enable them to extend their circuits to the principality of Wales; of all which grievances repeated complaints have seen made: And whereas the business of the said court of bankruptcy vill allow time for the judges of the said court, other than the chief, some one or more of them, to discharge part of the duties vested in the commissioners of the said first-mentioned court: Be it enacted, &c., His Majesty That it shall and may be lawful for his Majesty, his heirs and successors, may direct the rom time to time, by commission under the great seal of Great judges, other Britain, to authorize and direct the judges of the said court of bank- of the bankruptcy, other than the chief judge, any one or more of them, to act in he said first-mentioned court as a commissioner or commissioners act in the inthereof, at such times and for such purposes as may in any such com-solvent debtors' nission be specified.

II. That the said judge or judges so to be named in the said commis- Such judges to sion shall have and may exercise all the powers, authorities, and privi- have the same eges, whether in the court house of the said first-mentioned court, or powers as the apon the circuit, or elsewhere, which by the said first-recited act are commissioners given to or vested in the commissioners of the said first-mentioned of the insolvent

court, or any one or more of them.

III. That it shall and may be lawful for the said first-mentioned court Insolvent forthwith, after such petition and schedule as are by law required shall court empownave been filed in the said court by any prisoner lawfully entitled so to ered to order lo, being in any gaol within the principality of Wales, to order such prisoners to be prisoner to be brought before one of the commissioners of the said first-brought before mentioned court or judges of the said court of bankruptcy (acting by one of the comvirtue of this act) proceeding on his circuit at such assize or other town missioners or or place within the county or county of a city or town wherein such judge of the gaol shall be situate, as may be directed by order of the said first-men-ruptcy. tioned court in that behalf; and the matters of the petition of such prisoner shall be heard by such commissioner or judge accordingly, who shall for that purpose have and exercise all the powers, authorities, and privileges which are by law now vested in such commissioners severally

court.

debtors' court.

No. III. c. 47.

on circuit in England: Provided always, That nothing herein contain 3 & 4 W. 4, shall be construed to prevent the said first-mentioned court from ord ing any such prisoner to be brought before the justices of the peace the said act mentioned in cases where the said court may see fit so to and that the matters of any such petition may be heard by such justic and all other proceedings had therein, in manner directed by the s first-recited act.

Clerks of the to bring to the place of hearing petitions, the duplicate of petition, schedule, &c.

IV. That the clerks of the peace for the several counties within peace of princi- principality of Wales, or their deputies, shall bring to the place of he pality of Wales ing of any petition of any such prisoner before such judge or comm sioner the duplicate of petition, and schedule, books, papers, and w tings lodged with him, as by the said first-recited act the clerks of t peace in England and their deputies are required to do before the con missioners going circuits in England; and that such clerks of the per in Wales, or their deputies, shall do all such other acts at the tim of such hearings, and be entitled to such fees and allowances, are required of or allowed to clerks of the peace in England and th deputies.

V. That it shall and may be lawful for the lord high treasurer or lot direct payment commissioners of his Majesty's treasury of the united kingdom of Gn Britain and Ireland for the time being to direct that such sum or su shall be paid as may appear fit and necessary for the defraying the t velling expences of such judge or judges, with their or his registrar deputy registrar, and other necessary officers, in the execution of th

duties under this act.

Treasury may of travelling expences of judges, &c.

Court of review

may direct

VI. That it shall and may be lawful for the court of review in bar ruptcy to order and direct any one or more of the registrars or dept registrars of the said court of bankruptcy to attend any one or more the said judges in the discharge of their duties under this act, and give such attendance and perform such duties as the said court of revi may by any order direct.

registrars or deputy registrars to attend the said judges. Powers given to his Majesty the court of

bankruptcy.

VII. That it shall be lawful for his Majesty, his heirs and successol by warrant under his royal sign manual, from time to time to author with respect to any one or more judge or judges of the said court of bankruptcy exercise the same jurisdiction and powers in all respects as by the same secondly-recited act is and are given to any three of such judges; a also by any such or the like warrant to direct at what times said court of review, and the judges or commissioners of the 62 court of bankruptcy, and every of them, shall respectively hold the sittings.

Court of review may make orders as to taxing of costs.

VIII. That it shall and may be lawful for the said court of review order that any costs, which by the said secondly-recited act are direct to be taxed by one of the masters of the high court of chancery, shi and may be taxed by one of the registrars or deputy registrars of t said court of bankruptcy.

Jo. IV.] 5 & 6 W. IV. c. 29.—An Act for investing in Government Securities a Portion of the Cash lying unemployed in the Bank of England belonging to Bankrupts' Estates, and applying the Interest thereon in discharge of the Expences of the Court of Bankruptcy, and for the Relief of the Suitors in the said Court; and for removing Doubts as to the Extent of the Powers of the Court of Review and of the Subdivision Courts.

[21st August 1835.]

WHEREAS by an act passed in the first and second years of the 1 & 2 W. 4, reign of his present Majesty, intituled An Act to establish a Court in c. 56. ankruptcy, it was enacted, that it should be lawful for his Majesty, his eirs and successors, to establish a court of judicature, which should be illed "The Court of Bankruptcy," and to appoint judges, commisoners, and other officers of the said court; and that it should be lawil for the lord chancellor to choose official assignees to act in all bankuptcies prosecuted in the said court, and to collect the effects of bankupts, and to pay the proceeds thereof into the bank of England to the redit of the accountant general of the high court of chancery, subject the order of the lord high chancellor, or the said court or any judge nereof, as therein mentioned; and it was further enacted, That certain es and sums of money specified in the said act should be received by he lord chancellor's secretary of bankrupts, and paid by him into the ank of England, to the credit of the said accountant general, to an acount to be intituled "The Secretary of Bankrupts Account," and hat there should be paid out of the monies standing to that account ertain yearly sums specified in the said act as and for salaries to the udges and other officers of the said court for the time being; and it was urther enacted by the said act, that certain annuities, the amount hereof to be ascertained and certified as in the said act is mentioned, hould be respectively paid to the patentee for the execution of the laws ind statutes concerning bankrupts, to certain persons then acting as commissioners of bankrupt in London, and to certain officers of the ord chancellor and of the high court of chancery mentioned in the said ict, in lieu of and as compensation for certain fees and emoluments accustomed to be received by them, and which would by the provisions of the said act be wholly discontinued and abolished, out of the monies and securities standing to an account to be opened by the said accountint general, to be intituled "The Secretary of Bankrupts Compensation Account;" and that certain fees and sums of money specified by the said act should be paid by the said official assignees into the bank of England to the credit of the said accountant general, to be carried to the said accounts respectively: And whereas his Majesty did, by virtue and in pursuance of the said act, establish the said court of bankruptcy, and did appoint judges and commissioners and registrars and deputy registrars of the said court: And whereas official assignees have been chosen by the lord chancellor to act in bankruptcies as aforesaid: And whereas the amount of certain annuities have been duly ascertained and certified, in pursuance of the said act, to be due and payable to the persons therein mentioned, in lieu of the fees and emoluments aforesaid: And whereas an account has been opened in the bank of England by the said accountant general, intituled "The Secretary of Bankrupts Account," and another account has been opened in the hank of England by the said accountant general, intituled "The Secretary of Bankrupts Compensation Account:" And whereas the said official assignees have paid into the bank of England in the name of the said accountant general divers large sums of money, which have been placed to the credit of

No. IV. c. 29.

Part of the money in the bank belonging to bankrupts' estates to be carried to an account to be called." The Bankruptcy Fund Account."

Sum advanced to credit of bankrupts' compensation account to be repaid by order of lord chancellor.

Lord chancel-

lor to appoint accountant in

bankruptcy.

the several bankrupts estates: And whereas there now is and has be 5 & 6 W. 4, for a long time a very large sum of money belonging to bankru estates, or to suitors in matters of bankruptcy, standing in the name the said accountant general, which lies dead and unemployed in the s bank of England: And whereas it was necessary for the said account general to appoint certain persons to act as clerks in the performa and execution of the duties imposed upon him by the said act; but provision is made by the said act for the salaries of the said clerks a the other expences necessarily incident to the performance of the s duties, other than out of certain fees directed to be paid to the ch registrar of the said court: And whereas the business arising from duties imposed upon the said accountant general by the said act is g dually increasing, and the present establishment of clerks is likely become inadequate to transact the same with that accuracy and despate which is necessary for the public service: And whereas the payment the fees authorized by the said act, or a part thereof, will become un cessary, and the same may be discontinued if another fund is provide for the payments now made out of the said fees by the authority of said act: Be it therefore enacted, &c., That out of the cash belonging the estates of bankrupts, or to suitors in matters of bankruptcy, the now lies or shall hereafter lie dead and uninvested on securities in bank of England, in the name of the said accountant general, or of t accountant in bankruptcy hereafter mentioned, any sum or sums 1 exceeding in the whole the sum of three hundred thousand pounds sh and may, by virtue of any order or orders of the lord high chancellor be made for that purpose, from time to time be placed out in one ent sum or in parcels, in the name of the said accountant general or of t said accountant in bankruptcy, after the appointment of the said la mentioned accountant, on such government or parliamentary securit as in and by such order or orders shall be directed; and such securit shall be carried to an account to be intituled "The Bankruptcy Fu Account," subject to such rules and orders as the lord high chancel shall think fit to prescribe for the purposes herein mentioned.

II. And whereas the monies and securities standing to the credit the said account, intituled "The Secretary of Bankrupts Compensati Account," were in the month of August one thousand eight hundr and thirty-four found inadequate to meet the several payments then d and payable thereout, and the sum of two thousand four hundred pour was, on application to the lords commissioners of his Majesty's treasu then advanced and paid by them, through the lord chancellor's sec tary of bankrupts, into the bank of England to the credit of the st account, for the purpose of enabling the several payments then due to paid and discharged to the parties entitled thereto; but no power authority exists under the provisions of the said first-recited act, otherwise, for the repayment of such sum out of the monies and set rities standing to the credit of the said account; be it therefore enact That it shall be lawful for the lord high chancellor to order that the si sum of two thousand four hundred pounds so advanced and paid by t lords commissioners of his Majesty's treasury to the credit of the st account, intituled "The Secretary of Bankrupts Compensation A count," shall be repaid out of the monies and securities which now a or hereafter may be standing to the credit of such account, and t same shall be repayable and repaid accordingly, and until so repaid considered a charge on such account; any thing in the said first-recit or other act or acts contained to the contrary notwithstanding.

III. And whereas from the increased amount of the funds belongi to bankrupts estates, and the large number of accounts to which su funds belong, and which are daily augmenting, it appears that su funds and such accounts cannot be properly protected and managed the said accountant general of the high court of chancery, and it expedient therefore that an officer experienced in and conversant wi

e mode of keeping accounts, to be called "The Accountant in Bankptcy," shall be forthwith appointed to superintend and control the 5 & 6 W. 4, re and management of the said funds; be it therefore enacted, That shall be lawful for the lord high chancellor for the time being to minate from time to time as occasion may require some fit and proper rson to be the accountant in bankruptcy; which officer so to be pointed shall hold his office during good behaviour, notwithstanding e demise of his Majesty, or any of his heirs or successors: Provided ways, that it shall be lawful for the lord high chancellor by any order remove any such officer for some sufficient reason to be in such order pressed.

c. 29.

IV. That at any time after the appointment of the said accountant in Bankrupts' inkruptcy it shall and may be lawful for the lord high chancellor, by estates to be ly general or other order or orders, to direct that the whole or any part transferred into the cash, funds, or securities belonging to bankrupts' estates or to the name of the litors in matters of bankruptcy, and then standing in the name or to accountant in re credit of the said accountant general of the high court of chancery, bankruptcy. the bank of England, to the credit of any bankrupt's estate, or of any ssignee or assignees of such estate, or in the matter of any bankruptcy, e forthwith paid and transferred into the name and to the credit of the ud accountant in bankruptcy; and all such payments or transfers as ow are or heretofore have been made into the bank in the name or to ne credit of the accountant general of the high court of chancery in latters of bankruptcy shall, from and after the appointment of the said countant in bankruptcy, be made in the name or to the credit of the aid accountant in bankruptcy; and all cash, funds, or securities to be) paid or transferred as aforesaid shall be subject to such and the like rovisions, regulations, rules, and orders as the same are or would have een subject to if paid or transferred in the name or to the credit of the aid accountant general of the court of chancery, except as the same 1ay be altered by this act, or any rule or order to be made by the lord igh chancellor in respect of the same.

V. And whereas by an act passed in the sixth year of the reign of his So much of ite Majesty king George the Fourth, intituled An Act to amend the Laws 6 G. 4, c. 16, plating to Bankrupts, it is amongst other things enacted, that the assig- as directs the ees shall file a certificate in the office of the lord chancellor's secretary filing of the bankrupts, containing an account of the names of creditors to whom certificate and nclaimed dividends are due, and of the amount of such dividends; the investment, nd power is thereby given for the investment of such dividends; and &c. of unfter the expiration of three years the lord chancellor is empowered to dends, repealed. rder the same to be divided amongst and paid to the other creditors in nanner therein mentioned; be it enacted, that so much of the said act directs the filing of the said certificate, and the investment, division, nd payment of such unclaimed dividends, be and the same is hereby

epealed. 🛰

VI. That all dividends unclaimed as herein-after mentioned, and also Unclaimed diny undivided surplus of a bankrupt's estate, over and above the amount vidends to be nally directed to be divided amongst the creditors of any bankrupt, paid into the nall be paid into the bank of England to the credit of the accountant bank to the eneral of the high court of chancery, or of the accountant in bankiptcy, when such last-mentioned officer shall have been appointed, to
carried to an account to be entitled "The Unclaimed Dividend appointed, to ccount," subject to the order of the lord high chancellor, or of the the accountant ourt of review in bankruptcy, or of any commissioner of the said court, in bankruptcy. r the payment thereout of any dividend or dividends due to any editor or creditors, and subject also to the order of the lord chanillor for the laying out and investment thereof in the purchase of overnment or parliamentary securities, which securities shall be urried to the before-mentioned account to be intituled "The Bankiptcy Fund Account," and shall be subject to such rules and regulaone as the said lord chancellor shall direct: Provided always, That

No. IV c. 29.

How upclaimed dividends, &c. in the hands of assignees to be disposed of.

any order of any commissioner for payment of any dividend, u 5 & 6 W. 4, the provisions aforesaid, shall be subject to appeal to the said cou review.

> VII. That if any assignee under any commission of bankrupt or in bankruptcy now issued or hereafter to be issued shall have, ex in his own hands, or at any bankers, or otherwise subject to his or or disposition, or shall know that there is or are in the hands or sub to the order and disposition of himself and any co-assignee or co signees, or of any or either of them, any unclaimed dividend or d dends amounting in the whole to the sum of twenty pounds, or any si undivided surplus as aforesaid amounting to the sum of twenty pour such assignee shall, as to any such now existing unclaimed divide or dividends, within one year after the passing of this act, and a any future dividend or dividends within three calendar months n after the expiration of one year from the time of the declaration a order of payment of such future dividend or dividends, either pay same to the creditor or creditors or other the person or persons entit to the same respectively, or cause a certificate thereof respectively w filed in the office of the lord chancellor's secretary of bankrupts, a taining a full and true account of the name or names of the creditor creditors to whom such unclaimed dividend or dividends is or are spectively due, and of the amount of such dividend or dividends spectively; and shall in like manner, as to any such now existing a divided surplus as aforesaid, within one year after the passing of the act, and as to any such future undivided surplus as aforesaid with three calendar months next after the expiration of one year after: final declaration of dividends, cause a certificate stating the full z true amount of such surplus to be filed in the office of the said sec tary of bankrupts; and every certificate to be filed as aforesaid shall signed by the assignee or assignees filing the same; and every assign who shall, according to the provisions of this act, be bound to file su certificate as aforesaid, and who shall make default in filing the said shall be charged, in account with the estate of the bankrupt, with i terest upon the amount of such unclaimed dividend or dividends undivided surplus as aforesaid, to be computed from the time at whi such certificate is hereby required to be filed, at the rate of five pour per centum per annum, for such time as he shall thenceforth, eith solely or together with any co-assignee or co-assignees, or other pers or persons, retain such dividend or dividends or undivided surplus, the case may be, and also with such further sum as the lord chancel or the court of review shall direct, not exceeding in the whole at the ra of twenty pounds per centum per annum, to be computed from the till aforesaid; and every assignee shall, within one year next after the file of any such certificate as aforesaid, pay or cause to be paid into t bank of England to the name of the accountant general of the his court of chancery, or of the accountant in bankruptcy, when such la mentioned officer shall have been appointed, to be carried to the si account to be intituled "The Unclaimed Dividend Account," the fi amount of the unclaimed dividends mentioned in such certificate, or much thereof as shall not have been then paid to the creditor or cred tors or other person or persons entitled thereto, and also the fi amount of such undivided surplus as aforesaid; and if any assign shall make default in such payment it shall be lawful for the lord cha cellor or the said court of review, on petition or otherwise, to order th such sum or sums be forthwith paid into the bank of England in ma ner aforesaid, together with such further sum to be charged on su assignee or assignees, or other party or parties personally, as to the said lord chancellor or to the said court may seem fit, not exceeding at and after the rate of twenty pounds per centum per annum on the sum or sums so withheld, to be computed from the filling of such a tificate up to the time of payment of such sum or sums, and also to mal

h further order as to costs as the justice of the case shall seem to nire: Provided always, That no such certificate as aforesaid of any 5 & 6 W. 4, laimed dividend or dividends shall be filed until the expiration of year after the declaration and order for payment of such dividend

c. 29.

7 III. That the said accountant general in chancery or the said Certificates to Duntant in bankruptcy, as the case may be, shall, on the application be given to asiny assignee or assignees, give to him or them a certificate or certi-signees, on protes stating the amount of any sum or sums of money which he or duction of y may be desirous of paying into the bank of England under the which bank of wisions aforesaid; and on the production of such last-mentioned cer- England shall visions aforesaid; and on the production of such last-mentioned cercate or certificates the governor and company of the bank of England sums therein all receive the sum or sums therein mentioned, and give a receipt or mentioned, and eipts for the same, and shall forthwith carry the same to the credit give receipts for the said accountant general or the accountant in bankruptcy, as the the same. se may be, to the said account intituled "The Unclaimed Dividend count;" and every such certificate and receipt shall be given without or reward.

IX. That the interest and dividends of all the securities to be pur. Interest to be ased under the authority of this act shall from time to time be re- received by the ived by the governor and company of the bank of England, and be governor and rried to an account to be intituled "Interest arising from the Bank- company of the ptcy Fund Account," to the credit of the accountant general in ancery or the accountant in bankruptcy, as the circumstances may

X. That out of the interest and dividends of the government or parlia-Salaries and entary securities to be purchased under the authority of this act, and other expences it of the interest and dividends of any government or parliamentary to be paid out curities to be hereafter purchased and placed to the said account to be direction of the tituled "The Bankruptcy Fund Account," there shall be paid by the lord chanovernor and company of the bank of England, by virtue of any order orders of the lord chancellor to be made for that purpose, to the said ecountant in bankruptcy, such salary or yearly sum as the lord high hancellor may by any order or orders direct, not exceeding the yearly um of eight hundred pounds, and also to the clerks of the said acountant in bankruptcy such sums by way of salary as the lord chancelor shall by order direct, and also any further sum to the said accountnt in bankruptcy which may be necessary or expedient to defray the xpences of stationery, and other necessary expences of the said acountant, if any, to be by him incurred in discharge of the duties imosed upon him by this act; such several salaries or yearly sums before nentioned to be paid quarterly, free of charges; the first quarterly payaent to the accountant in bankruptcy for the time being to commence rom the day of his appointment, and as to the said clerks to commence rom the eleventh day of January one thousand eight hundred and hirty-five, or from such other day as may in any such order be specied: Provided always, that nothing herein-before contained shall auhorize the lord chancellor to order the payment in any one year of any um exceeding the sum of one thousand pounds for the payment of the alaries of the said clerks, and the discharge of such expences of staionery and other incidental expences as aforesaid.

XI. That it shall and may be lawful to and for the lord high chancel- Lord chancelor, upon the requisition of the said accountant in bankruptcy for that lor may appoint surpose, to appoint one or more, not exceeding five, persons to be clerks additional o the said accountant, and to order such yearly salaries as aforesaid to clerks, if nebe paid to them.

XII. That the salaries herein-before provided shall be in lieu of all Accountant not ees and emoluments whatsoever; and that all such fees and emoluments, to retain fees. vhether for commission, brokerage, or otherwise, as are now receivable by the said accountant general of the court of chancery in matters of pankruptcy, shall, from and after the appointment of the said account-

No. IV. c. 29.

Retiring allow-Elley.

ant in bankruptcy, be received by him, and paid into the bank is 5 & 6 W. 4, name of the said last-mentioned accountant, and be carried to the cr of the said account to be intituled "Interest arising from the Ba ruptcy Fund Account," and be applicable to all the purposes of the account.

XIII. And whereas Charles Elley, the chief clerk in the office of ance to Charles lord chancellor's secretary of bankrupts, is now of the age of seve years and upwards, and has been upwards of fifty years in the ab office, and from rheumatism and other bodily infirmities is become capable of giving full attendance so as effectually to discharge the du of the said office, and the emoluments of his said office were very me reduced by the operation of the said first-recited act, and the said Char Elley is desirous to be allowed to retire from the said office by reason such infirmities; be it therefore enacted, That it shall and may be law for the lord high chancellor, upon the retirement or removal from said office of the said Charles Elley, to order and direct that there said be paid to him during his life such annual sum not exceeding four his dred pounds per annum as to the said lord chancellor shall seem fit, sa annual sum to commence on the retirement or removal of the said Char Elley as aforesaid, and be payable at such time or times as the said is chancellor shall direct; which said annual sum shall be chargeable up and payable out of the said account intituled "The Secretary of Bar

rupts' Compensation Account."

Lord chancellor may direct interest from securities count.

XIV. That it shall be lawful for the said lord high chancellor, by a order or orders to be by him from time to time made for that purpo to order and direct that all or any part of the interest and dividends be carried to the said account to be intituled "Interest arising from to be carried to Bankruptcy Fund Account" may be carried over to the said account the secretary of respectively intituled "The Secretary of Bankrupts' Account" at bankrupts' ac- "The Secretary of Bankrupts' Compensation Account," or either them, and that the same may be applied in payment or in part satisfa tion of the annual and other sums now or hereafter to be charged upon and made payable out of the sums directed to be carried to the said last-mentioned accounts or either of them, and also to direct the the salaries and other sums by the said first-recited act directed to chargeable upon or payable out of the fees by the said act directed t be paid to the chief registrar of the court of bankruptcy may be paid out of the said interest and dividends, as the said lord high chancels shall in his discretion see fit, so that the salaries and other expences the said court being provided for out of the interest and dividends to t raised as aforesaid, the fees and other sums by the said act directed be paid may be abolished or reduced as the said lord high chancely may find himself from time to time enabled to abolish or reduce same.

Salaries to be paid on such days as the chancellor shall direct.

XV. That it shall and may be lawful to and for the said lord high chancellor, by any order or orders, to direct that all and every or an of the salaries by this act, or the annuities by way of compensation by the said first-recited act, made payable, or any part of any such salar or annuity, shall and may be paid respectively on such days and by such yearly or other payments as in the said order or orders shall be specified and in case of the death, resignation, or removal of any of the officer or persons entitled to salaries or annuities as aforesaid, by the same other order or orders to direct that the proportion of any salary or an nuity payable as aforesaid which may become due to any officer or per son as aforesaid between the time to which any such salary or annuit may have been then last paid or payable and the time of any such death resignation, or removal, shall be paid to the said officer or other person so resigning or being removed, his executors, administrators, or assigns or to the executors or administrators of any officer or other such per son so dying.

If the fund is not sufficient at XVI. That if at any time hereafter the whole or any part of the mone

ed out in pursuance of this act shall be wanted to answer any of the ands due in respect of the said bankrupts estates, then and in such 5 & 6 W. 4, the said lord high chancellor may and shall direct the whole or any of the securities in which the same may be placed to be sold and osed of, and the money arising from such sale to be paid into the any time then k of England in the name of the said accountant general in chancery the securities to he accountant in bankruptcy, in such manner as the said lord chan- be sold. or shall direct, in order that the demands due in respect of the said krupts' estates may at all times be fully paid out of the common and eral cash belonging to such estates.

IVII. That it shall be lawful for the lord high chancellor, by any Securities purer or orders, to authorize the change of the securities to be purchased chased may be

suant to this act, or any part of the same.

CVIII. And to the end that no suitor or suitors of the said court of Cash in the ikruptcy may be delayed in payment of any money due to him, her, bank belonging them, but that every one may receive his or her full demand whenso- to bankrupts' er he or she shall apply for the same, in the most easy and expediti- estates to be s way; be it enacted, That all the money and cash now deposited in one common bank, or that shall at any time hereafter be paid into or deposited and general the bank, on the account of bankrupts estates or in any matter of cash. nkruptcy, shall be and be accounted and taken to be one common d general cash, and shall be promiscously issued and issuable for the swering, paying, and clearing the debts and demands thereon.

XIX. That out of the interest and dividends of the said government Expences of parliamentary securities to be purchased as aforesaid the costs, proceedings arges, and expences of all proceedings to be had under this act shall under this act paid by the governor and company of the bank of England by virtue to be paid out

any order of the said lord high chancellor.

XX. Provided always, That if at any time hereafter the whole or any If money not art of the money to be laid out in pursuance of this act shall be wanted sufficient for answer the demand of any bankrupts or their creditors or other per- the purposes of ins interested therein and the stocks, funds, and cash then standing this act, the the name of the said accountant general in chancery or the accoun-same to be nt in bankruptcy to the several accounts before mentioned and made good by eated by this act, or either of them, shall not be sufficient to answer parliament. ad satisfy the said demands, then the same money taken for the purbees and by virtue of this act shall be and shall be considered a debt ie from the public, and to such extent as may be necessary shall be

iswered and made good by parliament accordingly. XXI. And whereas by the firstly herein-before recited act it is enacted Court in future at there shall be chief judge and three other judges of the said court to consist of bankrupcy, and that there shall be two registrars and eight deputy and two judges. gistrars of the said court: And whereas a vacancy having occurred by ne death of one of such judges, such vacancy has not been supplied, and it appears that the duties of the said court may be effectually perrmed by the chief judge and two other judges; be it therefore enacted, hat hereafter there shall be only two judges of the said court other nan the chief judge; and it is also appearing that upon the appointnent hereby authorized being made of an accountant in bankruptcy, art of the duties now performed by the chief registrar of the said court 1ay be discharged by such accountant, so that the duties now performed y the two registrars and the two deputy registrars not attached to the ommissioners of the said court may be discharged by two registrars nd one deputy registrar; be it therefore enacted, that as and when any In the event of acancy may occur by the death, removal, or retirement of any one of death or rehe said registrars, such vacancy shall be supplied by the deputy regis- moval of a rehe said registrars, such vacancy snau de supplied by the deputy registrar, vacancy rar acting under the registrar by whose death, removal, or retirement to be supplied nuch vacancy shall occur; and that when any vacancy shall occur by by deputy rehe death, removal, or retirement of either of the said two last-mentioned gistrar acting leputy registrars, such vacancy shall not be supplied so as to provide under him. altogether for more than two such registrars, and one such deputy egistrar other than the six deputy registrars attached to the com-

No. IV.

changed.

No. IV. 5 & 6 W.4. c. **29**.

Annual returns

missioners aforesaid; and it shall be lawful for the court of review. and as any such vacancy shall occur, to make such general orders the duties to be performed by such registrars and deputy registr they shall think fit.

XXII. That within two months from the first day of January in a to parliament. year returns shall be presented to parliament if then sitting, and then within one month after parliament shall have assembled, in said accountant general of the court of chancery or the accounts bankruptcy (as the case may be), of the net amounts at the credit a said accountant on the said first day of January on each of the follow distinct accounts, which returns shall respectively specify the and transferred and paid out as dividends, and the amount paid by one court or of the judges, and shall also show the unappropriated but then existing on each account; videlicet, First, The Bankrupter! Account; Second, The Interest arising from the Bankruptcy! Account; Third, The Unclaimed Dividend Account; Fourth. Secretary of Bankrupts' Account; Fifth, The Secretary of Bankrupts Compensation Account; the Fourth and Fifth of such Accounts to 1 appendixes attached to them, detailing all payments made from accounts, and to whom made, and whether as salaries, compensed or other allowances.

Mode of formcourts in case of non-attendance of any commissioners of the division to which cause is referred.

XXIII. And whereas by the said first-recited act it is enacted. I ing subdivision the six commissioners therein mentioned may be formed into two: division courts, consisting of three commissioners for each court, im purposes therein mentioned; and that all references and adjourned by a single commissioner to a subdivision court by virtue of said act shall be to the subdivision court to which he belongs, as the said commissioner, in case of the sickness of some one or most the commissioners of such subdivision court, or for other suffer cause, shall think fit otherwise to direct; be it enacted, That in cast the nonattendance of any one or more of the commissioners of either the said subdivision courts, to be duly summoned for that purpose. reference shall not be of necessity to the other subdivision court, lu shall and may be lawful for the remaining commissioner or come sioners of such subdivision court to call in and require the attenda of either or any of the commissioners of the other of the said # division courts, and that such commissioners may form a subdivis court for the purposes of the said recited act as fully and effectually either of the two subdivision courts so now authorized to be formed aforesaid.

Power given to affidavits.

Fces.

XXIV. That the said court of review and either of the said subdi courts to admi- sion courts, and also any judge or commissioner of the court of ba nister oaths on ruptcy, shall have power to administer oaths on affidavits to be sw before them respectively in matters of bankruptcy in all cases wh the same may be administered by a master in ordinary or extra dinary of the high court of chancery, and to take for every so oath, except where such oath shall be administered to an affidavit of tled in the court of bankruptcy or in the court of review, the fee one shilling and sixpence, which said fee shall be payable 2 paid accordingly; and that all such fees shall be accounted for a paid over to the chief registrar of the said court of bankruptcy, a be carried to the account of the second schedule of fees anner to the said first-recited act, and be applied to the purposes of the si schedule.

Court of review to have been from the passing of 1 & 2 W. 4, c. 56.

XXV. And whereas doubts have been entertained whether, by and subdivision terms of the said first-recited act, the said court of review and sub courts declared vision courts have been effectually made courts of record; and wheth the said courts have upon an examination before them the same power courts of record of commitment for the purpose of enforcing discovery as were vest in commissioners of bankrupt under the acts of parliament relating bankrupts in force at the time of the passing of the said first-recit act; and it is expedient that such doubts be removed, and that su

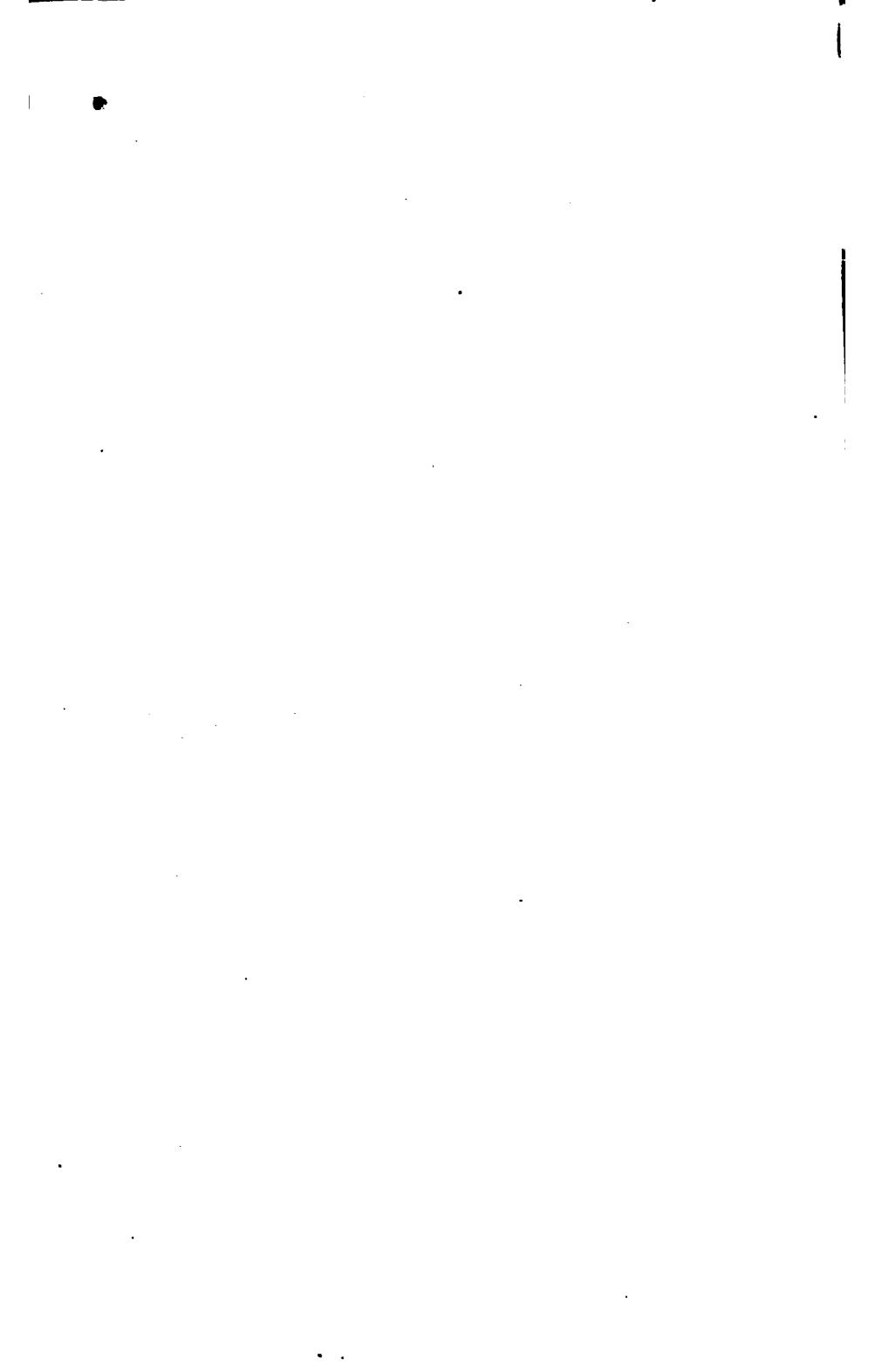
rs as are herein-after mentioned should be given to the several es and commissioners acting under the authority of the said first- 5 & 6 W. 4, ed act; be it enacted, and it is hereby declared, That the said court view and the said several subdivision courts respectively shall eforth be, and shall be deemed and taken from and after the passing e said first-recited act to have been courts of record, and shall and have and exercise all such powers of commitment as were vested in missioners of bankrupt acting as such at the time of the passing of said first-recited act, and shall and may have, use, and exercise all powers, rights, privileges, and incidents of a court of record, as to all intents and purposes as the same are used, exercised, and yed by any of his Majesty's courts of law at Westminster; and all rs heretofore pronounced and all acts done by the said court of w and subdivision courts respectively shall be deemed and taken to been pronounced and done by the said courts respectively as courts ecord; and every judge or commissioner appointed or to be apited by virtue of the said first-recited act sitting alone and acting in cution of the duties imposed upon him as such judge or commiser shall have, use, exercise and enjoy all the powers, rights, privis, and exemptions of a court of record: Provided always, That ning herein contained shall be deemed or taken to authorize or emer any such judge or commissioner sitting alone to impose any fine ommit for a contempt of court, but every contempt of any such ge or commissioner sitting alone and acting as aforesaid shall be nizable by the said court of review, to which the same may be reed by any such judge or commissioner as aforesaid; and the said rt of review shall have full power to deal with the same as a conpt of the said court of review: Provided also, That nothing herein tained shall be deemed or taken to diminish or affect the power by said first-recited act given to any such judge or commissioner of amitting any person examined before him to any messenger or other cer of the court of bankruptcy.

(XVI. That the powers and authorities given by this act to the lord As to the exerh chancellor shall and may be exercised in like manner and are cise of the eby given to the lord keeper or lords commissioners for the custody powers given the great seal respectively for the time being.

KXVIII. That this act shall be deemed and taken to be a public act, Public act. I shall be judicially taken notice of as such by all judges, justices, I others, without being specially pleaded.

No. IV. c. 29.

END OF PART IV.—CLASS XXVIII.



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